

Commission of Inquiry  
into the Deployment of  
Canadian Forces to Somalia



Commission d'enquête  
sur le déploiement des  
Forces canadiennes en Somalie

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# National Defence Headquarters Centre for Decision

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a study prepared for  
the Commission  
of Inquiry into  
the Deployment of  
Canadian Forces  
to Somalia

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Douglas L. Bland

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# **National Defence Headquarters**



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## *Abbreviations and Acronyms*

CDS	Chief of the Defence Staff
CF	Canadian Armed Forces
CFHQ	Canadian Forces Headquarters
DM	Deputy Minister
DND	Department of National Defence
MND	Minister of National Defence
MRG	Management Review Group
NATO	North Atlantic Treaty Organization
NDA	<i>National Defence Act</i>
NDHQ	National Defence Headquarters
QR&O	Queen's Regulations and Orders
RCGO	Royal Commission on Government Organization
UN	United Nations



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## *Foreword*

National Defence Headquarters (NDHQ) is at the centre of defence policy making, command of the Canadian Armed Forces (CF) and defence administration. It is simultaneously the government's instrument for controlling defence policy and directing the armed forces. Therefore, NDHQ is not only a legitimate target for close investigation by anyone concerned with defence policy and operational outcomes, it ought to be the critical and primary focus of their attention.

In Canada, the three principal aspects of national defence — political direction, command and administration — necessarily overlap to some degree, but Parliament has set out, in law, boundaries that act as a check and balance between those charged with each function. At times, these boundaries may be obscured by complex issues, but no permanent harm can occur as long as political leaders remain at the helm. A far more dangerous situation can develop when one authority captures an adjacent territory and assumes duties unintended by Parliament. In this situation, responsibility and accountability are never clear. It is, therefore, a critical political responsibility to maintain boundaries and to prevent individuals or groups within the defence establishment from gaining position and authority beyond their legal mandates. This study explores the crucial aspect of civil-military relations encompassed in the dynamic among policy making, command and administration by focussing attention on NDHQ, the centre for defence decisions in Canada.

The study refers to the principal reports on government and the organization of the Canadian Forces and the Department of National Defence (DND). These reports together trace the history of the ideas and decisions that brought NDHQ into being, and the lines of accountability in the headquarters today cannot be fully understood without reference to them. The most important of these primary sources are listed at the beginning of the bibliography.

This paper also makes considerable reference to the *National Defence Act* and regulations. Here the author is indebted to the advice and counsel of Brigadier-General (retired) James Simpson, Judge Advocate General, 1972-1976. The final interpretation, however, of all studies and the laws and regulations applicable to the Canadian Armed Forces and the Department of National Defence are the responsibility of the author alone.

Douglas L. Bland  
December 1995

## *Introduction*

National defence, the protection of Canada against military threats, is the product of government policy, the command of the Canadian Armed Forces (CF), and defence administration. How Canada is defended is ultimately decided by individuals' concepts about armed forces and the exercise of power and cannot be separated from the central concern of government. Policy is a set of decisions about ends and means. The policy-making process, however, is not only about "who gets what," but also about who decides who gets what from national resources. Command in military usage is the legal authority to give orders and to enforce compliance. The military chain of command linking responsibility and accountability is delineated by who gives orders and who obeys. Defence administration is more difficult to define, but it is always about identifying problems and choosing solutions to address them. National defence, therefore, is the consequence of the relationships among politicians, commanders and administrators, as well as their decisions and actions. National defence as policy and outcome can only be understood within the context of this dynamic complexity.

Behind social order in states lies the "sanction of force: force not to create right but to hold it; force to assure order, to cow rebellion at home and to subdue enemies abroad" (Howard, 1957: 11). Although force may not be the whole foundation of societies, it is a continuing reality of national communities. Force in modern states is the privilege of political power. However, in liberal democracies it is the people who allow politicians to organize and use force, even deadly force, in their name to meet agreed community ends. States, therefore, maintain "a class of men set apart from the general mass of the community, trained to particular uses, formed of peculiar notions, governed by peculiar laws, marked by peculiar distinctions" (Howard, 1957: 11). The Canadian Forces are composed of such a "class of men [and women]" and its mere existence may be a salvation and a difficulty for Canadians, thus the need for "peculiar laws."

Armed forces, by their very nature, pose threats to society and, therefore, deserve the special attention of elected civilians. Political leaders must protect society against the independent use of force by the military by setting and controlling the conditions and situations where force may be applied in society's name. On the other hand, society must guard against the unconditional obedience of the commanders of the armed forces to the government of the day, and so legislators enact laws to restrict partisan political activities in the armed forces. Unregulated soldiery is a third threat to society. To paraphrase Edmund Burke, an efficient armed and disciplined force may be a threat to liberty, but an inefficient and undisciplined army may be ruinous to society.

States, especially those that have evolved from the traditions of Westminster, have sought to control these persistent problems of civil-military relations by dividing aspects of the direction, command and administration of armed forces among politicians, military officers and public servants. Control of the military, however, demands and requires the active supervision of the armed forces by civilians elected to Parliament.<sup>1</sup> Ultimately, the government of the day must be held accountable for the effectiveness, good order and discipline of the armed forces and for the uses to which its power is applied.

The control of armed forces, however, is complicated by the ways in which defence policy, operations and administration are connected to and influence the national economy and other government policies. Politicians in Canada acknowledged this fact of political life in the early 1970s by promoting a new breed of defence department deputy minister they hoped would balance the advice of generals and co-ordinate defence policy within the broad field of public administration. However, as is commonly understood in Canadian political theory and in government, the boundary between the responsibilities, interests and activities of ministers, on the one hand, and public servants, on the other, is blurred in practice, if not in law.<sup>2</sup> The normal habits of the bureaucracy and the continual process of harmonizing policy and administration, encourage — and some say demand — forays by political and public service leaders into each other's separate areas of responsibility. The defence establishment<sup>3</sup> and its bureaucracy are more complicated and require more political attention than in other departments because they are home to three, not two, sets of players: politicians, military officers and public servants.

In spite of the putative powers of defence ministers, considerable control over the defence agenda can pass to experts who provide advice and define problems for them. This is a worry to those who think that questions



of peace and war are too important to be left to generals. Since 1972, significant aspects of defence administration and the control of defence policy have passed from generals to deputy ministers, but in an ad hoc way. Consequently, politicians who once worried mainly about controlling generals and admirals, now must confront a more formidable, unified "defence establishment" composed of soldiers and public servants holding a powerful concentration of expertise and command and administrative authority.

Today, the need for, but difficulty in controlling, expert defence advice is a paramount dilemma in civil-military relations because issues and technology are more complex than ever. Samuel Huntington (1957: 20) described this difficulty in 1957 saying, "the [civil-military relations] problem in the modern state is not armed revolt, but the relationship of the expert to the minister." Therefore, Canadian politicians who attempted to overcome the complexity of defence policy by passing power to public servants may have simply compounded the "expert problem" in Canadian civil-military relations by increasing the number of actors and blurring responsibility and accountability. While ministers may make the final choices, the fundamental question in matters of defence is: who is making the choice of possible choices? The answer in 1996 is perhaps more elusive than ever, but it ought to concern Canadians nonetheless.

Parliament is the instrument through which Canadians express the fundamental elements of defence policy and control the armed forces of Canada. The Minister of National Defence (MND) is Parliament's agent charged with directing defence policy and, with Cabinet colleagues, with identifying the military threats and vulnerabilities facing Canada. The Minister is aided by expert military advice and public service counsel organized separately within the CF and the Department of National Defence (DND).

The CF and DND are separate and distinct entities under the MND, each with its own leader. Thus, there are three principal relationships in the defence establishment and not one as in other departments. While all government departments (including DND) are administered under their own acts and common regulations, DND and the CF are distinguished by the *National Defence Act* (NDA). The NDA provides the legal base for civil control of the armed forces, command authority in the CF and defence organization, and places politicians, military officers and public servants (or "officials") in separate camps. These differences arise from Parliament's need to ensure that responsibility and accountability for defence policy, command of the CF and defence administration are distinct.

In Canada, the three principal aspects of national defence — political direction, command and administration — necessarily overlap to some degree, but Parliament has set out, in law, boundaries that act as a check and balance between those charged with each function. At times, these boundaries may be obscured by complex issues, but no permanent harm can occur as long as political leaders remain at the helm. A far more dangerous situation can develop when one authority captures an adjacent territory and assumes duties unintended by Parliament. In this situation, responsibility and accountability are never clear and nearly impossible to trace. It is, therefore, a critical political responsibility to maintain boundaries and to prevent individuals or groups within the defence establishment from gaining position and authority beyond their legal mandates. This study explores the crucial aspect of civil-military relations encompassed in the dynamic among policy making, command and administration by focussing attention on National Defence Headquarters (NDHQ), the centre for defence decisions in Canada.

Individuals commonly say that “people, not organizations make decisions.” It follows from this assumption that NDHQ is essentially an inert and impotent organization — simply lines and boxes on a chart — unquestioningly responsive to senior executives. A main point of argument in this study and, as we shall see, in the litany of criticisms aimed at the defence headquarters over the years, is that NDHQ is anything but a neutral responsive entity. It is, rather, an *assertive structure*. That is to say, NDHQ has evolved, like Hal, the self-directing computer of fiction, into a structure that operates outside the control of those it is meant to serve.

Technically, NDHQ is an amalgam of elements: actors with authority to decide, organizations that relate these actors and their authority to each other, and an internal decision-making process. It is reasonable to assume that changing one element of the structure would also change policy outcomes emanating from the whole. Moreover, it is argued here that the structure of NDHQ conditions every aspect of defence policy and, at least, influences the political control of the armed forces and the defence establishment, the command of the CF and the administration of defence policy in ways meant to perpetuate its own existence.

National Defence Headquarters is at the centre of defence policy, command and administration. It is both the instrument of government policy and, simultaneously, the initiator and controller of defence policy and the armed forces. If the areas of political control, command and administration were structured differently in NDHQ, then decisions and policies would be different. Certainly, as we shall see, this is the argument that

ministers, consultants and bureaucrats used when they refashioned DND and the Canadian Forces Headquarters (CFHQ) into NDHQ in 1972, and it is the crux of the argument put forward by senior officers who attempted (unsuccessfully) to change the structure of NDHQ in 1980-1981. Therefore, the structure of NDHQ is not only a legitimate target for close investigation by anyone concerned with defence policy and operational outcomes, it ought to be the critical and primary focus of their attention.





## *The Basic Concepts*

Important concepts lie at the base of laws and regulations governing the armed forces and the administration of defence policy in Canada. Three major conceptual frameworks connect the way Canada directs and organizes its national defence: civil control of the military, command of armed forces and defence administration in all its aspects.

### CIVIL CONTROL OF THE CANADIAN ARMED FORCES

In liberal democratic states civil control of the military means the control of armed forces by civilians elected to Parliament. In Canada, *civil control* of the military — conceptually distinct from *civilian control* of the military — is the responsibility of Parliament.<sup>1</sup> It must “ensure that decisions and risks that are essentially political are taken by politicians rather than by soldiers, officials, and others who are not directly responsible to Parliament” (Bland, 1987a: 218). The Cabinet collectively, under the direction of the Prime Minister, therefore, is (or ought to be) the responsible and accountable agent for definition of the defence policy and control of the armed forces of Canada.

Responsibility for preparing defence policy and using the armed forces to provide a reasonable assurance of national defence is delegated by the people of Canada to the governing party. However, the delegation of these responsibilities to the government of the day is limited. No government has unrestricted power over the CF. Rather, Canada’s constitutional arrangements and laws provide a set of checks and balances meant to control the authority of the government, the armed forces and the civil bureaucracies. In effect, the formulation of defence policy and the implementation and administration of that policy are shared among the Governor General, the Prime Minister, the Minister of National Defence (MND) as the agent of Parliament and the Cabinet, the Chief of the Defence Staff (CDS) and, in a narrow sense, the Deputy Minister (DM) of DND.<sup>2</sup>

The customs and norms that evolved from history and are now inherent in the relationship between politicians and soldiers and in certain explicit laws and regulations usually protect society from the armed forces and from any attempt by the government to use the armed forces for its own partisan purposes. Generally, officers and politicians perform different, but complementary, roles in the planning for national defence and the controlling of the armed forces. That is to say, the law gives politicians control over matters affecting the establishment, provision and use of armed forces, while officers are allowed to control matters that are more strictly military. These military areas include such things as force standards and doctrine, discipline, organizing units and formations, and directing operations in the field. The space between what is a civil or a military responsibility is narrow but provides sufficient room for ministers and officers to adjust to political and military circumstances. When, however, either party crosses too far into the other's domain, civil-military relations can rupture.

The concept of shared responsibilities is illustrated by the relationship between the Governor General and the armed forces. There is a risk, however slight, in a Parliament dominated by party politics that the CDS could be ordered to do something for the government that is essentially partisan. If the CDS were under the unlimited control of the party in power, then he or she would have to obey this partisan order or break the law. In this situation, Canada could plunge into a civil-military relations crisis. This situation is forestalled by placing the Governor General at the head of the armed forces as "commander-in-chief," thus providing a constitutional firebreak between the CDS and the Prime Minister. The CF is not the instrument of the government of the day and this constitutional safeguard is reinforced in law. The NDA describes the CF as "the armed forces of Her Majesty"<sup>3</sup> and defines officers as persons "holding Her Majesty's commission" in the CF.<sup>4</sup> The Governor General is, of course, Her Majesty's representative in Canada.<sup>5</sup>

The Prime Minister, as the head of government, has an obvious responsibility for national defence, although defence policy has seldom pre-occupied Canadian prime ministers. Nevertheless, the Prime Minister is the final arbiter on all questions of the national defence and no officer or official can hold a public position on the matter in opposition to him or her. Yet the CDS does have an implied power as the government's sole military adviser that gives him a degree of influence over national defence policy.

Although the Prime Minister's power is greater than that of the CDS, in essence, they share responsibility for the defence of Canada (Bland, 1995: 127-174). Before any military operation can begin, both the Prime Minister and the CDS would wish to agree on its essential elements. The Prime Minister is restricted from acting without the CDS by the NDA, which gives the CDS sole authority to issue orders to the CF.<sup>6</sup> The CDS, on the other hand, is controlled by the authority of the Prime Minister to recommend officers to the Governor in Council for appointment and dismissal to that office. Therefore, a public controversy over the feasibility and plans for a military operation that placed the Prime Minister and the CDS at odds could well require the dismissal of the CDS. That act would surely embroil the Prime Minister in a political furore because he or she might be accused of acting recklessly as his or her own military adviser. Thus, both the Prime Minister and the CDS usually seek to achieve their shared common goal — to provide for the defence of Canada — without public controversy and that practice makes them, in a sense, partners.

In the NDA, Parliament provides the Chief of the Defence Staff with a degree of independence from the governing party and gives the CDS certain responsibilities for national defence. The CDS, "subject to the regulations and under the direction of the minister, [is] charged with the control and administration of the CF<sup>7</sup>." However, the CDS's duties are not delegated duties given by the Minister, but are separate and distinct from the duties of the Minister. In effect, when the CDS controls and administers the CF, he is acting in his own right under the Minister who is responsible to Parliament. By custom and law, the CF is under the "control" of Canada's senior serving officer, the CDS, and the Prime Minister's access to military forces is thereby limited.

The CDS is also independent of the Parliament of Canada and the Prime Minister in "aid to the civil powers" in situations when he must respond to a request from a provincial attorney general. According to section 278 of the NDA, the CDS alone shall call out "such parts of the Canadian Forces as the CDS considers necessary" to perform duties in aid of the civil power; "here Parliament has specially placed reliance on the opinion of the CDS and it is his opinion and not that of the prime minister or the deputy minister that is critical" (Bland, 1987a: 90-92). Thus, the CDS is obliged under the NDA to act on such requests from the provinces without regard to the Prime Minister, although the CDS, as always, will decide the type and strength of the force to be deployed and retains authority over deployed troops. In practice, the CDS would arrive at such

decisions after consideration of all the financial and political circumstances of each case, but the decision about how to act is his alone.

The Minister of National Defence also has specific responsibilities for national defence drawn from custom and acts of Parliament. Under the NDA the MND has "the management and direction" of the armed forces, but authority over the CDS is restricted by the NDA to directing the CDS in the latter's exercise of "control" of the CF. It is particularly important to note that the CDS is appointed by the Governor in Council and serves "at pleasure" so long as he retains the confidence of the Prime Minister. Therefore, while the CDS will usually report to the Prime Minister through the Minister of National Defence, he is not obliged to do so. Indeed, some chiefs of defence have been treated as equal to ministers by some prime ministers (Bland, 1995: 134-144).

Modern governments have learned to control, if only imperfectly, the "expert problem" in civil-military relations by placing a civilian minister responsible to Parliament over national armed forces. Ministers in western liberal democracies are part of the defence planning structure and usually have a right of access to every discussion, document, plan and decision made by the armed forces' high command. Their position is given effect and reinforced by the power of parliaments to control the allocation and distribution of moneys to national defence.

Moreover, and especially since the late 1920s, ministries of defence staffed by a mix of officers and officials have evolved to assist ministers to manage their portfolios.<sup>8</sup> This arrangement, however, is no sure formula for success. Defence ministries have become essential actors in the defence establishment and have acquired considerable influence and power over the direction of defence policy because they are the repositories of defence information and because officers and officials who control ministries have wide powers of discretion. Furthermore, officers and officials combined in the ministry can become a formidable body of experts with joint interests that might thwart ministers' directions. Ironically, unified ministries of defence established to help ministers control the armed forces, may have created a greater problem for ministers by requiring them to control the powers of the military and the public service combined in the defence establishment. Therefore, though the defence ministry was intended to support ministers in exercising civil control over the armed forces, the successful control of civil-military relations still rests with the government and the minister and their active direction and supervision of defence policy, command and administration.



The Deputy Minister has no direct responsibility for national defence except as the “alter ego” of the Minister.<sup>9</sup> Generally, the Deputy Minister has the same powers as the Minister other than the power to make a regulation. However, practice, custom and judicial interpretations have limited the scope of this section. In DND, the Deputy Minister’s main duties are to control public servants and to manage the defence budget (but even here responsibility is shared with the CDS, for instance, in matters of the pay and rank structure in the CF). The Deputy Minister does not, however, exercise any powers independently or for the Minister in respect of operational matters of the CF. Nevertheless, the Deputy Minister’s responsibility for the effective and proper use of defence funds gives him or her a tangential responsibility for national defence and, at times, for a variety of reasons, deputy ministers have gained considerable authority over defence policy and the operations of the armed forces. However, these events (or lapses) do not give the Deputy Minister a legitimate share of responsibilities vis-à-vis the CF or its operations.

The notion of shared responsibility is not always obvious and is sometimes disputed in the day-to-day functioning of government. It might appear to some that there is an unnecessary degree of ambiguity in the relationships and responsibilities between senior political, military and bureaucratic officials for national defence. “This perception, however, arises from a confusion between legal authority and the understandable desire of officials to consult with each other and to work together. Once it is understood that each [politician, officer and] official [has] specific responsibilities under the law and that these cannot be shared collegially, the ambiguity disappears” (Bland, 1987a: 93). NDHQ as the institutional centre for defence ought to provide a clear delineation in organization reflecting the letter and the spirit of the law. Unfortunately, NDHQ does not now meet this test successfully.

#### MILITARY COMMAND

Command and discipline are the essence of the military system. At the head of this system stands the commander, the officer from whom all authority radiates. Command, the legal authority to issue orders and to compel obedience, must be sharply defined in law, unambiguously delineated in organization and obvious in execution. But command is also about decision. “The art, the concepts, and the philosophy of command involve interweaving aspects of concepts of decision and concepts of organization.

Thus, command, decision, and organization all are part of each other" (Eccles, 1965: 119). Command is, of course, a human activity fashioned by creative imagination and beset with the frailties of human nature.

Acts of war place people in harm's way and may demand that they sacrifice their lives. Often soldiers will willingly follow their leaders and obey their orders in the most trying situations. At other times, soldiers will mutiny and no effort will compel them forward. Although command authority provides the basis for order and discipline and is usually reinforced by a code of military laws to maintain discipline, authority is rarely enough by itself.

Leadership, the art of gaining the willing obedience of subordinates, is an essential component of command. Personal courage, integrity, sacrifice, a willingness to take difficult decisions and personal responsibility have characterized military leadership throughout the ages. When this sense of responsibility is married to "a deep personal understanding of the troops and their problems, a clear purpose, discipline, and hard training," people will follow leaders without coercion (Eccles, 1965: 245). War is conducted in an environment of great personal danger, and orders alone may not hold troops under fire, but respected leaders usually do.

The most successful leader, however, can accomplish little, if he or she cannot decide or if his or her decisions are wanting. Careful plans, the best weapons, well-trained troops, all are wasted if the commander fails to employ them wisely. Sound decisions may be the essence of command, but how to reach them is often the least practised skill. "In some cases, a man may spend a working career gaining experience in routine administration and perhaps minor tactical decisions and then find the safety and success of an army or campaign depending entirely on him, with only a few lonely minutes to make *the decision* of his whole life (Eccles, 1965: 19)." In such circumstances, much depends on sound training, proven staffs, and a balanced combination of logic and intuition gained from experience. Without these aids "an uncertain perspective, intuition and the plausible will dominate and action will tend to be haphazard or misdirected" (Eccles, 1965: 119).

Command decision begins from a clear perspective of the circumstances in which the decision will be made. Each action requires a precise objective that has itself been analysed to determine not only what is to be accomplished, but also to define what constitutes the attainment of that objective. Cost, in the sense of the relative value of competing opportunities, must be understood. A commander must then add the situational elements to the material factors to arrive at a coherent view of the op-

tions. The decision, tempered by experience, ought to flow from this analysis. The commander's staff and subordinate commanders may help to assess any situation, but "the commander, by his own statement and analysis of objectives, fulfills *his inescapable obligation* to provide unity of concept in the midst of diverse distractions, contractions, and paradox" (Eccles, 1965: 149). Finally, however, *the decision* is left to the commander alone and ultimately depends on his or her courage to make it, and his or her integrity to take responsibility for it.

Although command is a lonely appointment, commanders have always depended on some type of staff organization to assist them in their deliberations and in the execution of their plans. Military commands and staffs have evolved from the history of warfare, and there is near universal agreement among military theorists and leaders on the ideas that ought to frame the relationship between commanders, staffs and units.

Unity of command implies that one head will command and be accountable overall for decisions within a force. The idea is also the basis for discipline as it joins subordinate commanders to senior commanders. Delegation that may flow from the unified commander in no way impedes unity of command because the act of delegation passes authority but not responsibility down the so-called chain of command. The delegating commander is always responsible and accountable for the orders and actions of those to whom he or she delegates authority.

Commanders have authority, but staff officers have none. This principle comes from the idea of unity of command and separates those officers who assist commanders from those who are responsible and accountable for planning and conducting operations. Staff officers may be senior officers and they might direct large staffs with complex duties, but their authority is always constrained and outside the chain of command. Otherwise, command authority would be diffused and no subordinate or delegated commander could ever be sure of the source of his or her orders. Staff officers, therefore, always act in the name of their commanders but not for their commanders.

Employing the "operational arts"<sup>10</sup> in the name of the state is the *raison d'être* of any armed force. Any effort to sustain forces for their own purposes or to manipulate defence policy in the interest of military institutions subverts societies and the armed forces. Within armed forces, therefore, the management of violence and the operational aspects of the armed forces are paramount. Although the success of military units in the field requires enormous logistic and administrative efforts, such support is always the means to an end and not the end in itself. Therefore, operational plan-

ning should take precedence over every other aspect of military staff work. Furthermore, because the needs of the operational plan always direct the necessarily subordinate plans of the logistics and administrative staffs, officers of the operational branches of the armed forces should always lead staffs, or at least be *primus inter pares*, in any military headquarters.

"Efficiency" in a military context is defined and measured in operational success and not in some narrow economic sense. Military staff officers, while conscious of the need to husband scarce resources, understand that the uncertainties and frictions of warfare demand that plans provide for ample reserves. Military planning, therefore, must begin from the operational estimate of what is required to win and not from an estimate of what is available to win. Commanders and staff officers who are hostages to business definitions of efficiency lose wars.

Finally, military staffs strive to meet the idea of "completed staff work." The notion entails both a technical and an ethical aspect. Officers are expected to understand a problem in all its dimensions and to master its details. They are also trained to be precise and accurate. Officers must prepare estimates, plans and requirements with due regard for the consequences of error because incomplete or sloppy work can kill soldiers and imperil operational missions. Staff officers must acknowledge problems and bring doubts to their commanders. They are required, as the Prussian army motto states, "to be frank unto the Kaiser." Officers who fail the test of frankness, fail their duty.

Command involves choice and judgment and, therefore, is concerned with ethics. The act of command "implies ethical actions in which individuals are held to be ethically responsible for what they do precisely in terms of what they promise to do and not to do. Specifically, soldiers are ethically responsible for observing the code of ethics they agreed to abide by when they acquired special membership in the profession of arms" (Gabriel, 1982: 29).

This code of ethics applies to all soldiers and officers, but it carries special meaning for commanders for two reasons. First, the soldier's code has always meant "observing those moral obligations and precepts that are appropriate to a person's role within the military profession" (Gabriel, 1982: 41). Second, while all persons are ultimately responsible for their own fate, military service in effect transfers individual choice from subordinate to superior. Moreover, the effects of command carry risks for those who are obliged by law to obey commands and orders. A commander, therefore, must, through his or her intellect, training and experience, understand the reasons for, and the consequences of, his or her actions or



inactions. Furthermore, commanders may be called on to explain and defend their choices in terms of both the military code and what society perceives as right and wrong.

#### DEFENCE ADMINISTRATION

Defence administration is critical to defence outcomes. The effective administration of defence policies and resources can obviously enhance military operations. Yet, defence administration is also about choosing among alternative means to reach ends, and it places considerable power in the hands of those who make the choices. As John Sweetman (1984, 10) described so brilliantly in his work about 19th century British defence organization, “administration is concerned with political responsibility, not the outpourings of menial clerks.”

Generally, defence administration is concerned with national efforts to assemble, equip, finance and supply armed forces. It is separated from military logistics in the sense that logistics concerns the supply of field forces — including naval units and air forces — in action and is largely a military staff matter. Defence administration affects logistics, but it encompasses much more.

Policy is not self-enforcing. If it is to apply, it has to be implemented. Administrators in defence departments, as in other departments of government, change declared policy into actual policy through the administration of means. Moreover, by providing an essential co-ordinating function between government and the military, defence administrators join defence policies, the armed forces and the defence ministry to other policies, departments and agencies of government. The customs of the public service and of civil administration imply that administrators have a degree of discretion and that they are expected to make choices among alternatives. Therefore, they, like commanders, ought to be held accountable for their decisions and for “what they promise to do and not to do.”

The Department of National Defence has a long history. Officials often spend their entire career in the department, and they, like the department, provide an element of continuity in defence policy and administration. Age brings with it stability, if not respect, and this institutional stability provides defence officials (who, presumably, know their department's history) with considerable leverage whenever they battle other bureaucrats or military officers. Defence programs also have a long life — a major weapons project may last 25 years or more. Any official or officer who manages a major project for very long soon establishes a certain

institutional presence and authority that are difficult to overcome without threatening the continuity of the project. The complexity of defence administration and the lengthy careers of some incumbents, create a self-reinforcing mechanism that provides those incumbents with considerable power over officers and politicians who are usually transients in defence ministries.

Defence administrators are meant to be the servants of ministers and armed forces. If politicians and soldiers are not careful, the administrative tail can easily wag the operational dog. It is in this sense that Sweetman warns against underestimating the "outpourings of menial clerks." The power and authority that administrators wield over the long term is the "modern" problem of civil-military relations that Huntington warned against in 1957. Today, controlling the armed forces in any modern state requires ministers to place firm controls on the entire defence establishment and on officials who personify that establishment.

## *The Law and the Defence Ministry*

The *National Defence Act* and regulations govern almost all aspects of civil-military activity in Canada. No reform or change in arrangements for the civil control of the CF, command authority or defence administration can be made without reference to the NDA and regulations. Subordinate arrangements for defence organization, levels of authority and the relationships among politicians, officers and officials are also subject to the laws and regulations governing the national defence and public administration.

The NDA is supplemented by regulations, principally by Queen's Regulations and Orders (QR&O) for the Canadian Forces.<sup>1</sup> The Act clearly establishes two broad areas of jurisdiction that determine the parameters and relationships between the civil authority and the CF. The first area concerns the organization of the defence department and civil authorities and the second concerns military organization and command, and the specific powers of military authorities.

Thus, the Canadian defence establishment is composed of two separate entities: DND and the CF. The distinction is important and it has a long history in Canada. The pre-1950 defence acts governing the three separate armed services always referred to the army, navy and air force as "the armed forces of Her Majesty" strongly implying that the armed forces are distinct, even from the government. Parliament carried this terminology into the NDA when it consolidated the separate service acts in 1950.<sup>2</sup> Moreover, during the 1950 debate on the introduction of the NDA, members specifically separated the department from the armed forces by organizing the Act into two "parts."<sup>3</sup> When the CF was "unified" in 1967, the separation remained.

After the CFHQ and the NDHQ were amalgamated in 1972, officers and officials began to refer to the CF and DND as if they were one entity. This habit, and criticisms of it, prompted the Judge Advocate General (1988: 4) to declare that "a major confusing factor for those dealing with

the two national defence organizations [the CF and DND] is the integrated structure of NDHQ" which gives the impression that the two entities are simply branches of one organization. He concluded that this inference is wrong and "to refer to DND and the CF as if they were the same organization is incorrect and has significant legal consequences."

In practical terms of command and administration, how the defence establishment is structured — as one entity or two — also has significant policy consequences. That is not to say that the relationship between the CF and DND is immutable. However, whenever the structure of the CF and DND, as established by statute (the NDA), is changed by administrative fiat but not by statute, civil-military relationships can become dangerously confused. Left unattended, confusion can lead to situations where no one is sure of who has authority over whom and who is accountable within the defence establishment for policy, command and administration of the CF. What the law makes clear, bureaucratic preference in NDHQ has made ambiguous.

DND is a public service department of government authorized under part I, section 3 of the NDA which states: "There is hereby established a department of the Government of Canada called the Department of National Defence over which the Minister of National Defence appointed by commission under the Great Seal shall preside."

Part I of the Act relates to DND only and the remaining parts relate to the CF. The department, like all other federal departments, is managed by a department head, the Deputy Minister, who directs a civilian staff. The Deputy Minister is guided by various acts and regulations giving that person responsibility for the financial control of the defence budget and management of departmental public servants.<sup>4</sup>

The CF is clearly shown to be separate from DND in part II, section 14 of the NDA which states: "[T]he Canadian Forces are the armed forces of Her Majesty raised by Canada and consist of one Service called the Canadian Armed Forces." Part II of the NDA provides direction for the composition, organization, command and administration of the armed forces. Parts IV through IX of the NDA prescribes the Code of Service Discipline. Indeed, except for part I, all other parts of the NDA apply only to members of the CF (except in unique circumstances) and this fact further distinguishes the CF from DND.

Also, whereas DND is a single entity, a department, without other elements, the NDA states that "[t]he Canadian Forces shall consist of such units and other elements as are from time to time organized by or under



the authority of the minister.”<sup>5</sup> Under QR&O article 2.08(1), the Minister may authorize:

- (a) the establishment of commands and formations; and
- (b) the allocation to commands and formations of such bases, units and elements that the Minister considers expedient.<sup>6</sup>

Officials in DND and officers of the CF must obviously co-ordinate their activities and co-operate if they are to fulfil the directions and policies of the Canadian government. However, the broad organization of the defence establishment and its management processes must not interfere with the government’s capacity to maintain effective direct control of the armed forces. Furthermore, because command in the CF provides special powers to individuals over Canadian citizens and carries with it specific responsibility to use deadly force in the defence of Canada, command authority and accountability in the armed forces must be unambiguous and exercised according to law.

The CF and DND are unique among government agencies and departments because there is no statutory purpose stated for either. The employment of the CF, except for “aid of the civil power” provided in part XI of the *National Defence Act*,<sup>7</sup> rests with the Crown prerogative. Therefore, the government of the day must choose how it wishes to use the CF.<sup>8</sup> This condition places special responsibilities on Parliament and the government of the day to give clear direction to the CF and to oversee carefully their activities.



## *The Decision Makers*

The responsibilities and formal relationships of the Minister of National Defence, CDS and the Deputy Minister — the key actors in defence policy, command and administration — are set out in the NDA and regulations. An understanding of the laws governing the key actors and the relationship between them is central to any discussion of the exercise of power and policy outcomes in national defence. It is also important to understand that any change in the distribution of responsibilities and authority and the relationship among the key actors in the defence establishment will invariably have significant consequences for the formulation of defence policy, command of the CF and defence administration. Therefore, any suggestions for reform or changes in relationships between the Minister, the CDS and the Deputy Minister ought not to be made without reference to the NDA and only after a careful analysis of the impact the reforms would have on civil-military relations in Canada.

### THE MINISTER OF NATIONAL DEFENCE

The statutory position of and relationships among the Minister of National Defence, the Deputy Minister and the CDS are established by the NDA. The Minister and the Deputy Minister are appointed by the Governor in Council under part I, Department of National Defence of the NDA, while the CDS is appointed by the Governor in Council under part II, The Canadian Forces.

As noted earlier in this paper, section 3 establishes the “department of national defence over which the minister of national defence shall preside.” The NDA provides, under section 4, that “[t]he minister holds the office during pleasure, has the management and direction of the Canadian Forces and all matters relating to national defence...” Generally, the powers of the Minister can be grouped into three main types:

- those that he or she exercises by virtue of his or her constitutional position as a minister of the Crown, such as making submissions to the Governor in Council and advising the Governor in Council on defence matters;
- those of a legislative nature, such as making regulations that he or she is empowered to exercise by or under an act of Parliament, e.g., subsection 13(2) of the NDA; and
- all other powers vested in him or her by or under various acts of Parliament, e.g., the *Aeronautics Act*, the *Visiting Forces Act* and the NDA including his or her power under the NDA to manage and direct the CF including the CDS.

Section 12.2 provides that the Minister, “subject to any regulations made by the governor in council...may make regulations for the organization, training, discipline, efficiency, administration and good government of the Canadian Forces.” However, the Minister “does not have power to make regulations” when “there is express reference to regulations made or prescribed by the Governor in Council or the Treasury Board in respect of any matter.”

#### THE CHIEF OF THE DEFENCE STAFF

It is important to note the distinction between parts I and II of the NDA which clearly sets the CDS apart from the Minister and DND. Specifically, the NDA states at section 18(1): “The Governor in Council may appoint an officer to be the Chief of the Defence Staff...who shall, subject to the regulations and under the direction of the minister, be charged with the control and administration of the Canadian Forces.”

The CDS derives his powers from the NDA and regulations (principally, QR&O volumes I, II and III). As mentioned above, in the exercise of his general powers the CDS is subject to the direction of the Minister, but his duties are not delegated from the Minister. The CDS has responsibility exclusive of the Minister of National Defence (and, of course, of the Deputy Minister also) in three areas:

1. Those powers in respect of which clearly he is not subject to direction by the Minister or the Deputy Minister. QR&O articles 204 and 205 are examples of regulations that imply that the power given to the CDS is not subject to the direction of the Minister. Under those articles the rate of pay of a general officer is, within the annual ranges



prescribed by Treasury Board, "as determined from time to time by the Chief of the Defence Staff on the basis of merit." In this case, CDS will be strongly influenced by the Deputy Minister in respect of the financial resources available and other financial implications but the ultimate decision must be that of the CDS.

2. Those powers that are given to the CDS in a form that, by necessary implications, indicates that he is not subject to the direction of the Minister or the Deputy Minister in exercising those powers. For example, section 236 of the NDA says that the CDS shall call out *in aid of the civil power* "such part of the Canadian Forces as he considers necessary..." Here Parliament has specifically placed reliance on the opinion of the CDS, and it is his or her opinion and not that of the Prime Minister, the Minister of National Defence nor the Deputy Minister that is critical. In forming his or her opinion the CDS will, of course, consider various factors such as operational and financial requirements. As the senior military officer, the CDS will be the best judge of the former, but may wish to be informed by the Deputy Minister in respect of the latter. Although the CDS should eventually form his or her own opinion, it will undoubtedly be influenced to some extent by the wishes of the Prime Minister and the Minister of National Defence as their confidence must be retained.
3. Those that concern *purely military matters*, such as the conduct of military operations within political, financial or foreign policy restraints imposed by the government.<sup>1</sup>

Thus, while there is, in one sense, an organization known as "the department" which is primarily civilian, over which the Minister "presides," and a separate organization known as the "Canadian Forces" under the control of the CDS, the Minister has different statutory powers in respect of both of those organizations, whereas the CDS has statutory powers over the CF only.

It is important to note also that the Minister has the "management and direction" of the Canadian Forces, whereas the CDS, "under the direction of the minister," has the "control and administration of the Canadian Forces." The distinction between management and administration is not clear. It could be, but is not necessarily, more one of degree than of kind. But what is clear is that Parliament chose to vest "control" of the CF directly in the CDS, subject only to the direction of the Minister.

The purpose in using the same word "direction" to describe the power of the Minister may have disappeared with the unification of three separate

services into "one service called the Canadian Armed Forces."<sup>2</sup> Historically, when the CF consisted of three separate services, there may have been more reason to provide that the Minister would have direction of the Canadian armed services and to provide also that control would be exercised by the chief of staff of each service in respect of his service. From time to time, individuals suggest that it would make sense for the NDA now to state that the CDS has "command" of the Canadian Forces, the word command being generally synonymous with control but more strongly emphasizing the authority to be exercised over a military force. Such suggestions, however, have never gone far because the "command-in-chief...of all...Military Forces...[is] vested in the Queen"<sup>3</sup> and changing the status of the CDS would raise complicated constitutional questions regarding the role of the Governor General.

#### THE DEPUTY MINISTER

Section 7 of the NDA provides for a "deputy minister of National Defence who shall be appointed by the Governor in Council." The Act, however, is silent as to the DM's authority in matters of defence policy. Generally, the Deputy Minister has powers only regarding the department and they are usually only those related to powers vested in the position by acts of Parliament. That is, the DM derives his or her authority from acts such as the *Financial Administration Act* and the *Interpretation Act*, including regulations made under these acts. The Deputy Minister's position and relationship with the Minister of National Defence and the CDS is largely governed by subsection 23(2) of the *Interpretation Act* which reads in part:

Words directing or empowering a minister of the Crown to do an act or thing, regardless of whether the thing is administrative, legislative, or judicial...or otherwise applying to him by his name of office, include (a) a minister acting for a minister; (b) the successor of that minister; (c) and his or their deputy. Nothing in this paragraph (2)(c)...shall be construed to authorize a deputy to exercise any authority conferred on a minister to make a regulation...

Thus the Deputy Minister may have, subject to authority delegated by the Minister, substantially the same powers as the Minister. Nevertheless, the main powers of the Deputy Minister in DND that are conferred by statutes are concerned primarily with financial management and the direction of civilian personnel. Some individuals believe that because deputy

ministers act at times as the “alter-ego” to ministers and because, generally, they can exercise any power assigned to them by ministers, deputy ministers in DND have near unlimited authority over any defence matter, including operational decisions of the CF.

This argument is invalid for a number of reasons. First, ministers of national defence do not exercise total control over every aspect of defence policy because the CDS has statutory responsibilities under the NDA including “control” over the CF. Therefore, because in some respects the Minister does not control the CF, deputy ministers at DND obviously cannot exercise absolute control over the CF or the CDS. Second, according to Henry Molot (1994: 272), where a minister presides over two distinct departments, “officials from one department cannot act for and on behalf of the minister presiding over [that other] department.” If that is so, given that the CF and DND are two separate entities, the Deputy Minister of DND is precluded from acting for the Minister in the management and direction of the CF. Third, Molot also argues that a minister cannot delegate “serious” duties that Parliament intends he or she fulfil, and that he or she can only delegate powers and duties to an official that are “incidental and appropriate to [the] functions” of that official (Molot, 1994: 275). The management and direction of the armed forces are certainly serious matters, and military planning and operations are never “incidental” functions of public servants. Fourth, members of the CF are not public servants subject to the direction of public service leaders, and the Deputy Minister has no authority over them. Finally, the law clearly states that orders and directives to the CF must be issued by the CDS which means, of course, that the Deputy Minister cannot issue orders to the CF.

By long established custom, the Deputy Minister of DND does not exercise the powers of the Minister in respect of matters of an operational nature or having to do with military discipline. A legal opinion was given by the Judge Advocate General in 1961 to the effect that, although the *Interpretation Act* did in law permit the Deputy Minister to direct the former chiefs of staff of the three services in the control and administration of the Canadian Forces, it is a well-established departmental custom that the Deputy Minister should not exercise that legal power unless the matter is in relation to procurement, defence property, civilian personnel or had serious financial implications (Bland, 1995: 154-161).

The position of the Deputy Minister in DND, therefore, has been somewhat different from that of deputy ministers in other departments. Elgin Armstrong, long-serving Deputy Minister at DND, (1960-1971) once

remarked that the DM's position in relation to the armed forces is something that each DM has got to develop (Bland, 1995: 159). Since 1972, successive deputy ministers have sought to formalize and confirm a prominent position for themselves not only in traditional matters of personnel and financial management, but also in broad areas of defence policy and military operations. In 1982, "Buzz" Nixon (Deputy Minister 1975-1982) openly displayed terms of reference that implied that he had wide powers for defence policy, planning and the use of operational resources (Bland, 1995: 161-165). The statement may have been a description of bureaucratic reality at the time, but it had no validity in law or custom. Robert Fowler (Deputy Minister 1989-1994) presented a similar detailed list of his assumed responsibilities for defence policy and management to the Joint Committee of the Senate and the House of Commons On Canada's Defence in 1994 (Fowler, 1994: 4).

#### INSTITUTIONAL AMBIGUITY OR CHECKS AND BALANCES?

At times, commissions and individuals have tried to suggest better ways to order the relationships and responsibilities in the defence establishment. They are usually searching for an elusive rational structure that will place all matters and issues of defence policy, command and administration in a hierarchy of authority under the absolute control of the Minister. These suggestions, for the most part, have come from managerial and private business schools and tend to ignore fundamental civil-military relations, problems and ideas. The NDA has evolved, however, into an instrument that sacrifices clean managerial lines in order to address the more important problems of civil-military relations: overseeing the military's use of its power, checking abuses of the military by politicians, disciplining the armed forces and controlling the expert problem in defence ministries. The Act does this by purposefully separating authority and accountability for policy, command and administration between politicians, officers and officials. Any attempt to concentrate authority in one segment of the defence establishment would subvert the necessary checks and balances built into the NDA.

The 1961 Glassco Commission (Royal Commission on Government Organization [RCGO]) addressed the relationships between the MND, CDS and the DM. The commissioners' observations are too often overlooked but provide perhaps the best description of what might appear to be an unduly complicated arrangement. They noted, in particular, the legal basis and intent to separate the authority of the Minister of National



Defence, the CDS and the Deputy Minister that exist in acts of Parliament. In their opinion, the DM of DND is different from the DM of other departments because "the general oversight and direction vested in the deputy minister by the Civil Service Act is exercised subject to the limitations set out in the National Defence Act" (RCGO, 1961: 74). They recognized also that as the Deputy Minister is a "lawful deputy," it is within the Minister's discretion to assign duties to him or her. "Thus the minister determines the role of the deputy minister of DND, who may assign a variety of functions *so long as they fall within statutory and constitutional limitations*" (RCGO, 1961: 75).

The NDA and regulations prevent defence ministers from assigning just any duty to deputy ministers or chiefs of defence. They also restrict the supervision of the CDS by the DM and the supplanting of the CDS's authority by that of the Deputy Minister and vice versa. Consequently, because the powers and authority of the CDS and the Deputy Minister are different in law, scope, subject and application, the authority of the CDS and the Deputy Minister can never be joined.

The general conclusion is that the Minister of National Defence, the Chief of the Defence Staff and the Deputy Minister each has distinct and separate responsibilities under the law. No satisfactory interpretation has yet been offered that would support the argument that any one of these individual authorities is empowered to replace or speak for any other on all issues and every situation. If an easy, or even arguable, answer were available, it would surely have been brought before Parliament as so many investigators have suggested must be done. However, no minister has ever seen the need nor felt secure enough to open such a debate to public scrutiny.

When it is understood that each official has specific responsibilities under the law to guard Parliament's capability to control the CF while protecting officers from partisan politics, then it becomes obvious that the collegial direction and management of defence policy and the CF are not only impossible, but also unwise. There will doubtless always be a certain degree of overlap between legal authority and the understandable desire of officials to consult each other and to work together. All that ministers must do is ensure that they organize the defence establishment and the defence policy process to separate clearly acts of consultation from acts of authority and command.

Ultimately, the organization of DND, the CF and NDHQ must conform to the law and provide the staff and the means by which each official can carry out his or her responsibilities in the spirit and letter of the law.

Today, many individuals question the collegial system of administration and power sharing that is the foundation for the organization of NDHQ and suggest that it may be rooted in misunderstandings and inappropriate interpretations of the law. As a result, the system may misdirect and confuse the Minister, the CDS and the Deputy Minister. Internal confusion, moreover, can distort defence policy, disrupt command and upset administration, making assessments of responsibility and accountability impossible.

## *Command*

### THE LEGAL ASPECTS OF COMMAND

The law governing command authority in the Canadian Forces is prescribed in the NDA and in regulations. Primary authority rests with the Governor in Council for the “organization, training, discipline, efficiency, administration and good government of the Canadian Forces” (section 12). The Minister, under section 12(2), also has the power to regulate the same matters but is subject to Governor in Council and Treasury Board primacy. Command of, and in, the CF is a distinct activity, separate from these general categories.

The legislative aspects of command are addressed in two provisions. Subsection 18(1) of the NDA prescribes that the Governor in Council may appoint a Chief of the Defence Staff “who shall, subject to the regulations and under the direction of the Minister, be charged with the control and administration of the Canadian Forces.” “Control and administration” must be interpreted as the military notion of “full command” subject only to the prerogatives of the Queen of Canada, the NDA and the direction of the Minister. Furthermore, “command” of, and in, the CF is confirmed as a military activity that flows through commissioned officers and non-commissioned officers of the CF by section 18(2):

Unless the Governor in Council otherwise directs, all orders and instructions to the Canadian Forces that are required to give direction to the decisions and to carry out the directions of the Government of Canada or the Minister shall be issued by or through the Chief of the Defence Staff.

The NDA provision respecting command states that “[t]he authority and powers of command of officers and noncommissioned members shall be as prescribed in regulations.”<sup>1</sup> One of the regulations implementing this statutory provision is QR&O article 1.13. It is a regulation made by the

Governor in Council and states that the CDS *may* assign some of his or her powers to assistant deputy ministers of DND who are officers of the CF:

Where any power or jurisdiction is given to, or any act or thing is required to be done by, to or before the Chief of the Defence Staff, the Chief of the Defence Staff may, on such terms and conditions as he deems necessary, assign that power or jurisdiction to, or authorize that act or thing to be done by, to or before *an officer*<sup>2</sup> [of the CF] not below the rank of major-general holding one of the following appointments at National Defence Headquarters:

- (a) Assistant Deputy Minister (Policy);
- (b) Associate Assistant Deputy Minister (Policy);
- (c) Assistant Deputy Minister (Personnel);
- (d) Associate Assistant Deputy Minister (Personnel);
- (e) Assistant Deputy Minister (Finance);
- (f) Associate Assistant Deputy Minister (Finance);
- (g) Assistant Deputy Minister (Materiel);
- (h) Associate Assistant Deputy Minister (Materiel);

and, subject to any terms or conditions prescribed by the Chief of the Defence Staff, that power or jurisdiction may be exercised by, or that act or thing may be done by, to or before that officer.

Thus QR&O article 1.13 authorizes the CDS to “assign” any of his or her powers or jurisdiction to “officers” who hold a position as assistant or associate assistant deputy minister at NDHQ.

QR&O articles 1.14, 1.15 and 1.16 empower the CDS to authorize anyone (officer or civilian) holding a position of assistant deputy minister to exercise powers or jurisdiction of the Chief of the Defence Staff under regulations made by the Treasury Board, Governor in Council or the Minister. Thus the law allows civilian assistant deputy ministers to exercise certain of the CDS’s responsibilities, but they are limited. Assistant deputy ministers have no right to act in the place of the CDS without his authority. In any case, these individuals are expressly excluded from acting in areas dealing with rank and structure of the CF, aid of the civil power, code of service discipline and any aspect of operations or the chain of command of the armed forces.<sup>3</sup> It is instructive to note also that these provisions only provide for the delegation of the powers of the CDS to civilian assistant deputy ministers in the non-command areas of policy, finance and



matériel to the senior officers of NDHQ, but not to the commanders of CF commands.<sup>4</sup>

The powers of a commander of a command are prescribed by regulation as extending to the “exercise [of] command over all formations, bases, units and elements allocated to the command”<sup>5</sup> certain other powers, such as to convene courts-martial.<sup>6</sup> Thus the chain of command, the linked military system of authority and accountability in the CF, can be described in two ways. First, it is a legal chain beginning (and ending ultimately) in the office of the CDS. It is also a hierarchy of individual commanders within their functional formations and units that comprise the elements of the CF. Neither has any permanent life nor legal status beyond the CF as a “single service.” The elements exist at the pleasure of the Minister of National Defence but commanders serve only at the pleasure of the CDS.

The chain of command for any element is prescribed under the NDA and regulations and customs of the service. The NDA implies that orders and directions to the CF flow from the CDS through “superior officers” to units and individuals of the CF. A superior officer “means any officer or noncommissioned member who, in relation to any other officer or non-commissioned member, is by [the NDA], or by regulation or custom of the service, authorized to give a lawful command to that other officer or noncommissioned member.”<sup>7</sup> No other person, including ministers or public servants, is part of the chain of command nor does any other person have any command authority in the CF. Therefore, members of the CF are not required to obey any “orders or directions” issued to them by anyone other than “superior officers” of the CF.

On the other hand, every person who disobeys a lawful command of a superior officer is guilty of an offence under the NDA.<sup>8</sup> This stipulation defines accountability in the CF — subordinate to superior — and is reinforced by section 129 of the NDA which states that “any act, conduct, disorder, or neglect to the prejudice of good order and discipline is an offence.” Moreover, the fact of enrolment in the CF (section 20, NDA) places an individual under the provisions of the code of service discipline and requires that individual to act in conformance with the norms of good order and discipline. Members of the CF, therefore, are always required to obey lawful orders and are always liable to be called to account by their superiors whether they are under specific orders or not.

The code of service discipline, however, is applicable only to members of the CF except in special and particular circumstances. Therefore, not only are civilians not normally subject to the orders of military persons, but neither are members of the CF in any way subject to orders issued to

them by civilians. Even the Minister is not in the chain of command, having no authority to issue orders to the CF except through the CDS and then only in prescribed limits. As Brooke Claxton once remarked during his long term as Defence Minister, "The chain of command flows from the commander-in-chief...in Canada the Governor General, down to the lowest recruit...The minister is not in the chain of command; nor should he issue orders any more than he should wear a uniform" (National Archives of Canada, undated: 21-22).

Thus, the chain of command in the CF as set out in the NDA is unambiguous. Beginning with the CDS, it links "superior officers" of the CF to every individual member of the CF. The chain of command defines accountability simply because it relates individuals with authority and responsibility to other individuals with lesser levels of authority and responsibility. The NDA stipulates how lawful orders are to be passed to members of the CF, and the NDA and regulations under it only allow orders to be passed from superior to subordinate members of the CF. The regulations compel subordinates to obey commands and orders, unless they are manifestly illegal. Furthermore, the law implies that superior officers will oversee the execution of lawful orders, commands and directions. To do otherwise, would be prejudicial to good order and discipline within the CF.<sup>9</sup>

The chain of command functions within the organization of the CF. Appointment to command of CF units and formations confers special responsibilities on officers because it requires them to train, discipline and administer the forces under their command. Among other things, commanding officers at every level are "responsible for the whole of the organization" they command and cannot delegate "matters of general organization and policy; important matters requiring the commanding officer's personal attention and decision; and the general control and supervision of the various duties that the commanding officer has allocated to others."<sup>10</sup> Command of CF commands carries additional responsibilities and provides additional powers to commanders and, therefore, they must perform their duties with special diligence.

Custom of the service distinguishes superior officers appointed as commanders of units and formations from all other superior officers. First, such appointments are usually limited in time. Second, the organization of units provides for a clear hierarchy of officers and non-commissioned members such that a commanding officer or commander is usually the only lawful source of orders and direction in a particular unit or formation. This condition is emphasized by the fact that commanding officers have

special powers to authorize officers or other ranks to lay charges under the code of service discipline and special powers of punishment only while they hold that appointment. Also under the custom of the service, commanding officers are held directly accountable and responsible for the performance of their units and formations. Therefore, although the CF is a "single service" and units and formations have no permanent status, the hierarchical nature of military organization reflects the legal status of superior officers to subordinates and illustrates the "normal" chain of command, in fact.

While superior officers are always accountable for the units under their command, it would be unusual for a superior officer to bypass his or her immediate subordinate commanders to issue orders directly to units or individuals. Nevertheless, both the customs of the service and the NDA compel superior officers — inside or outside the chain of command — to take corrective action whenever they believe subordinates have issued illegal orders, have endangered their troops or whenever they observe acts to the prejudice of good order and discipline. Therefore, although the organization of the CF into units and formations provides for an orderly way to issue orders, maintain discipline, conduct operations and assess accountability, it is not sacrosanct.

#### OPERATIONAL DUTIES OF THE CDS

The Chief of the Defence Staff is obviously distinct from every other officer of the CF. The CDS has several unique (and overlapping) duties and responsibilities as leader of the Canadian Forces, and as the government's military adviser. He is the officer who connects the armed forces to the government and the government to the armed forces. No CDS should attempt to force a military solution on the Minister of National Defence or the Cabinet, but neither can advice from the CDS be tempered to satisfy partisan political interests. But no CDS is ever a simple, neutral messenger, for under the law he or she has a stake in defence policy. Although not prescribed in the NDA, surely a major duty of the CDS is to give the government sound apolitical military advice and then to ensure that the government's decisions are carried out by the CF.

In reality, the relationship between any CDS and the government is not set by rules, but by the confidence each has in the other. The government must have confidence in the integrity of the advice offered by the Chief of Defence Staff and the CDS must have confidence in the government's defence policy. Furthermore, each CDS must weigh government policy

against his responsibilities to support the members of the CF and to protect them from undue harm. Where confidence is absent on either side, civil-military relations suffer and then control over the armed forces and accountability suffers also.

Chiefs of defence have had an uneven record in Canada since the office was founded in 1964. Two problems impair incumbents. The capability of the CDS to act as a commander is weakened by Canada's habit of "lending troops" to other nations' commands and to allies.<sup>11</sup> Moreover, a half century of alliance-based strategy seemed to diminish any need for a national military commander and a supporting headquarters. This notion led some, such as the Glassco commissioners, to declare that the main concern of the "headquarters organization in DND is one of support (logistics and manning) rather than operational command" (RCGO, 1961: 65-66). A second problem as serious as the first is the tendency for chiefs of defence to see themselves in the guise of public servants and to frame their advice to governments in partisan terms. The abandonment of the neutral, apolitical nature of the office of the CDS can have dire consequences for the nation, for if the government receives advice meant to facilitate its preferences, it could stroll unwittingly into a military disaster. The CDS ought to be responsive to the government's agenda and policies, but the CDS must be, above all else, "frank unto the Kaiser."

Concern for operational command of the Canadian armed services was not the motive for the establishment of the office of the Chief of the Defence Staff (Bland, 1995: 89-90). Nevertheless, the concentration of all authority and responsibility for the control and administration of the CF in the CDS made the CDS commander in law and military custom. Exercising command, however, in the sense of directing operational forces, has rarely been a concern for chiefs of the defence. Furthermore, chiefs of defence have as often been ignored by governments when they write defence policy and make decisions concerning the defence of Canada (Bland, 1995: 89-90).

This curious situation follows from the willingness of Canadian politicians, officers and the public to entrust the command of Canadians to foreigners and allies. It follows also from Canada's post World War II commitments to the North Atlantic Treaty Organization (NATO) and the United Nations (UN) that seemed to take command responsibility and initiative from the CDS. As a result, many policy makers, bureaucrats and officers, and several chiefs of defence came to accept the CDS as a type of senior defence administrator (Bland, 1987a: 95-119). The causes and consequences of this situation are important.



The office of the CDS was founded in an era of considerable confusion about national command. Longstanding commitments, which appeared to place the command of CF in allied or UN hands, exaggerated this conceptual weakness. Continued weaknesses in the political direction of the armed forces exaggerated this problem, especially after 1972 with the defence ministers' near abandonment to the public servants of responsibility for the direction of civil-military relations. While peace prevailed, the cost of this confusion of command remained hidden. When, however, the system came under stress — as in Somalia — it stumbled.

Although the early reasons for establishing the position are confused, the CDS today is the *de jure* and *de facto* commander of the CF, and officers look to the CDS for command decisions. The CDS is responsible ultimately for the CF and for the duties that he or she delegates to subordinate commanders. The CDS cannot stand apart from the chain of command without breaking the chain of authority and accountability in the armed forces. Furthermore, because the CDS is the link between Parliament and the CF, any separation between the CDS and commanders and units in the field reduces civil control over the military. Unity of command, therefore, is an important matter of civil-military relations, more important, perhaps, than a mere prerequisite to military discipline and efficiency.

Whenever the CDS is or is seen to be separated from command responsibilities, then other officers, and even some bureaucrats, may attempt to fill the void. This is what happened in 1980 when commanders of commands attempted to resurrect the separate service commands because they thought that the office of the CDS had been usurped by the Deputy Minister and by the "civilianization" of NDHQ (Bland, 1995: 101-125). Without command strength at the centre, unity of command will dissipate and authority will pass unpredictably to others. In such circumstances, Parliament's ability to control the armed forces is jeopardized.

Parliament demands that Canadian officers command the CF not merely to satisfy officers' professional sensitivities, but to ensure that the CF is commanded by individuals accountable to Parliament. The system of command of the CF in peacetime, crisis and war, therefore, is an essential component of national civil-military relations. If the system of command is not precise, then accountability and parliamentary control of the armed forces also fail.

It is sadly ironic that during the Gulf War — nearly 30 years after unification, when for the first time the CF had an opportunity to act as a unified fighting force — the Canadian contribution was thrown into con-



fusion because the CDS and officers in NDHQ had little idea about how to organize and command a unified combat force under a national command (Bland, 1995: 200-203). Today, the office of the CDS, established precisely to reinforce Parliament's control over the CF, is failing because political and military inattention to the CDS's role as commander has compromised Parliament's instrument.

The CDS shares responsibility for national defence with government leaders. In both law and custom, the CDS has duties to Canada and to the members of the CF that transcend the line between the preferences of the government of the day and military operations. No CDS can acquiesce in policies that might recklessly endanger national defence or the lives of service personnel (Bland, 1995: 127-175). Under the NDA, section 18(1), CDSs are responsible for the control and administration of the CF at all times, and these professional duties cannot be compromised to suit the partisan needs of the government. The CDS is responsible to provide appropriate but apolitical advice to the ministers and to carry out wide-ranging duties without regard for the partisan fortunes of the government of the day. It is possible, therefore, that the competing nature of the CDS's duties could bring him or her into conflict with the government's opinions, policies and interests. Certainly, any CDS would want to avoid such a situation, but must not compromise political neutrality or responsibilities to the country or the CF to dodge a confrontation.

When a minister rejects or arbitrarily changes a public servant's plan to administer a policy and then substitutes his or her own plan, there is no reason for a public servant to resign on principle. On the other hand, if a minister were to change a military plan without the advice of the CDS, then the implied loss of confidence and the dictates of military ethics may require the CDS to resign "for the good of the service" and, simultaneously, for the good of the country.

Other professional and ethical difficulties within the CF might prompt a CDS to resign. An obvious failure of the CF to complete successfully a significant military task, especially where the fault involves senior command decisions, would *require* the CDS to resign. Administrative failures that resulted in loss of life, public embarrassment to the CF or the government, or theft or fraud traceable to the office of the CDS would *require* the CDS to resign. Failures in the military's own code of conduct or ethic, for instance, a serious breakdown in "good order and discipline" in the CF, especially breakdowns attributable to lack of due diligence in the chain of command, would *require* the CDS to resign. Failures in these

classes include not only errors of commission, but also any omission to take action to prevent an error, any failure to do what the soldier's code promises.

A CDS is under no obligation to resign simply because the government refuses to accept his or her advice on a military matter. Ultimately, the government's will must prevail and politicians will always decide defence issues in the context of other needs and interests. Nevertheless, continual forays by technocrats, bureaucrats and business consultants into the cardinal domains of military planning and operations pose a severe challenge to the CDS. "It is not too difficult for a military man to accept an adverse decision based on nonmilitary considerations. It becomes extremely difficult, however, for him to reconcile himself to an adverse decision by his civilian superiors based on military considerations" (Ginsburgh, 1964:84). Thus, if a significant policy decision is taken by the government that affects national defence or the CF fundamentally without considering the advice of the CDS, or if the government accepts other advice based on a military assessment instead of that offered by the CDS, then the CDS would have no option but to resign. Disregarding the CDS implies a loss of confidence in his or her judgment, and whenever the government loses confidence in the CDS, the CDS would be *required* to resign. Conversely, whenever the CDS loses confidence in the government's direction of the defence of Canada or the CDS's place in the defence planning process, then he or she ought to resign immediately.

These standards and obligations place an extraordinary burden on the CDS and other senior commanders as well. Open conflict between the armed forces and the government serves little purpose and may harm the CF in some respects. Ministers and the CDS, therefore, must strive to find positions that enhance Parliament's control of the armed forces, but inure the CF from partisan interference in what are truly military responsibilities. An important aspect of this process depends on senior officers understanding their special relationship to government. Unfortunately, few senior officers have displayed a sound cognizance of their corporate responsibility to Canada and the CF beyond the government of the day. This professional obliviousness snares some in a web of ethical confusion and causes others to compromise their professional neutrality.

## A STRUCTURE FOR DEFENCE DECISION MAKING

Neither policies nor commands are self-enforcing. Each directive requires the active participation by those in authority with those responsible for giving effect to decisions and orders. This activity can be simple and direct — issue an order and set a deadline — or it can be extremely complex and cover long periods. Defence policy is difficult to manage because it is based on rapidly changing technology, formulated around uncertain factors and influenced by international and alliance circumstances that are largely beyond the control of governments. The defence establishment, as Glassco and others have noted, presents a special range of problems because of its size, the range and cost of its activities, and the coincident of defence decisions on local communities and other national policies.

Building an effective central mechanism for national defence planning and operations is complicated because it must draw together two different professional cultures and two different operational concepts. The differences between the military culture and the public service culture stem, as we have already discussed, from essentially different histories, ethics, responsibilities and relationships with governments and ministers. Moreover, the so-called principles of war and command and the norms and practices of public management are not necessarily compatible. These diverging factors prompt officers and public servants to champion disparate goals and values and to approach problems from diverse points of view. Understandably, they tend to have different definitions of what is important and how problems can be solved. Although officers and officials can usually find some common ground on which to build defence policy, that result can never be taken for granted.

The history of defence planning in Canada is, in the main, a story of the continuous effort by officers and officials to meet the defence policies of governments in the absence of close attention by ministers. For most of Canada's history, defence policy and the employment and command of the operational elements of the armed forces have been assumed within other nations' or alliance strategies and command structures. This "willing subordination" seems to relieve ministers of the burden of overseeing and directing defence policy and the armed forces, or so many of them thought at the time. Nevertheless, even the day-to-day administration of the CF within an alliance strategy calls for decisions that demand the attention of ministers. When, however, officers and officials lack clear

direction, they feel compelled to act and this necessity can encourage bad habits.

From its own circumstances, Canada has, quite naturally, designed and used defence structures to formulate and administer defence policy and to command the CF. The main influences on the design of this structure have been allied strategies and national commitments, political inattention to the details of defence policy, a habit of passing the national command of Canadian troops to multinational commands, an ever-present, but not unfriendly, friction between officers and officials, and a continuous search for an undefined state of "efficiency." Together, these influences have tended to make the central organ for defence decisions "over-centralized and overly staff ridden" (Pederson and Neelin, 1974: 33-39) and to detract from the active command and supervision of the armed forces in the field.

Three main periods of reform mark the history of the defence establishment since 1945. In each period ministers of defence attempted to improve the efficiency and effectiveness of the defence establishment, centralize the machinery for decision making and unify the armed services. Brooke Claxton (Minister of National Defence, 1946-1954) created the modern Department of National Defence. He amalgamated the separate service departments and officials into one department under one deputy minister. Claxton organized the three service chiefs into an integrated committee system and appointed a chairman of the Chiefs of Staff Committee. His efforts enabled Canada to demobilize after World War II, to rebuild the armed services and to deploy forces in Korea and Europe rapidly in the 1950s. Claxton's reforms were very important and some were contentious, but they were only possible because he energetically supervised his officers and officials (see Bercuson, 1993).

Claxton's administration was not perfect and when Paul Hellyer became Minister of National Defence (1963-1967) he decided to make other — some say radical — changes to the structure of the armed services and the department. His first decision was to unify the command of the CF under one Chief of the Defence Staff and to revamp the Defence Council. Whereas Hellyer's predecessors had faced six or seven senior advisers, Hellyer reorganized his committee around three advisers: the CDS for military advice, the Deputy Minister for financial and political advice, and the Chairman of the Defence Research Board for scientific advice. He wanted greater efficiency and more civilian participation in the unified CFHQ under the CDS and the departmental headquarters under the



Deputy Minister, but he had no intention of amalgamating the two separate entities. Hellyer insisted on protecting the CDS from civil servants who might assume "functions which are necessary to the military staff in order that they can efficiently control the military forces and carry out their military responsibilities."<sup>12</sup> Hellyer's premise was that he would be an active defence minister and take decisions with the advice of his Defence Council. So long as that premise held (and it did under Hellyer) the structure he built proved reasonably successful in managing and controlling defence policy and the CF.

Donald Macdonald (Minister of National Defence, 1970-1972) was impatient with DND and the leaders of the CF. Moreover, he was not much interested in actively supervising his portfolio. The Trudeau government and Macdonald intended to take defence policy in a new direction and reorganized the department to hold that course (Granatstein and Bothwell, 1990: 234-244).

Macdonald felt that the Deputy Minister should play a larger role in policy matters and in the administration of the CF to free the Minister for other political duties. He formed a civilian-directed Management Review Group (MRG) to evaluate the military, civil and research organizations of the department and to make recommendations for changes (DND, 1971a: 42-43). The MRG recommended that the Minister organize the department and the CF as a single unit and that the Deputy Minister be placed in an "office of the minister" with authority over every aspect of defence policy, operations and administration. The MRG insisted that this radical suggestion would require amendments to the NDA as it changed the legal status of the CDS, the CF and placed a civilian, the Deputy Minister, between the armed forces and Parliament (DND, 1972: xi).

Macdonald left the defence portfolio before the MRG report was complete, but his successor, Edgar Benson (Minister of National Defence, 1972), accepted it with reservations. Neither he nor any minister amended the NDA as recommended nor did anyone accept the idea of the "office of the minister." The report passed before the parliamentary committee on defence, but it soon disappeared into DND. Nevertheless, a truncated version of the report was used, however imperfectly, as the basis for the establishment of NDHQ, an amalgamation of the department's headquarters and CFHQ. Under Sylvain Cloutier (Deputy Minister, 1971-1975) and General Jacques Dextraze (CDS, 1972-1977), NDHQ grew into a type of military command and civil administration structure. Unfortunately, the uncertain legitimacy of its birth confused and blurred the relationship between the CDS and the Deputy Minister in NDHQ and their relationships



with ministers and Parliament outside the headquarters (Bland, 1987a: 175-182).

The amalgamation of NDHQ had other negative effects as well. Hellyer built a strong unified command under the CDS, but the success of this idea depended not only on the power of the office, but also on the strength of CFHQ — the CDS's instrument to administer and control subordinate commands. Commanders relied on the CDS and his staff to provide clear orders and priorities and to guard the long-term interests to the CF. When CFHQ disappeared and the Deputy Minister assumed broader responsibilities in NDHQ, the faith of subordinate commanders in the office of the CDS and the central direction of the CF suffered. They soon began to complain that defence policy and the administration of the CF were becoming "civilianized," i.e., controlled and conditioned by alien ideas and programs. This perception spurred commanders of commands to form military centres based on their narrower service interests. In effect, the establishment of NDHQ as a CDS/DM diarchy drove the commanders to build a semi-independent military structure outside Ottawa. This informal act had further negative consequences for the co-ordination of policy and the control of the armed forces by Parliament.

The uncertainty, and some say, illegitimacy, which marked the establishment of NDHQ continues today. In reality, because authority and accountability in NDHQ are unclear, control over defence policy making, command and administration is often decided by the strength of the personalities of individuals in the organization. At times, CDSs dominate NDHQ and, at other times, deputy ministers hold sway and, occasionally, a strong minister comes into office and presides over the whole. As personalities, events and issues change, so do relationships and responsibilities, but always in unpredictable ways.

#### THE RANDOM MANAGEMENT SYSTEM

NDHQ has been described as operating under a random management system in which events and plans develop without much regard for laws, norms or principles normally associated with defence ministries or military commands (Bland, 1987a:175-182). The confusion of aims and the forced union of military and public service cultures are the root cause of this continuous upheaval. Often, in quiet times, this underlying difficulty can be controlled, but whenever NDHQ comes under stress or whenever the principals cannot agree, the weaknesses in the headquarters' foundations cause the whole structure to tremble.

Air Chief Marshal Frank Miller, the first CDS, captured the problem precisely when he remarked in 1960, "if we could be sure of having an attentive minister of defence...then it would not be necessary to have a chief of the defence forces; [sic] however, we cannot plan the future shape of the department on this assumption" (as quoted in Bland, 1995: 2). His point was that because ministers had abandoned their co-ordinating responsibilities, DND and the services invented a new one, the CDS, to replace the Minister.

The 1972 changes that joined CFHQ to the department were motivated by precisely the same attitude. Then, however, the centre of power was meant to shift to the Deputy Minister. By the mid-1970s, NDHQ had evolved into a hybrid, collegially directed institution where power and authority and, consequently, accountability, became difficult to locate. Throughout the next 20 years, an uneasy alliance existed where officers and officials jointly assumed the responsibility for co-ordinating defence policy and made administrative decisions that ought to have been made by ministers. This situation was not so much a usurpation of power as a necessity if the business of defence was to go forward.

In time, NDHQ became the real centre for decision, eclipsing not only the Minister but also the CDS and the Deputy Minister. This is not to say that NDHQ became a rational planning institution. Rather, the lack of an internal consensus on national strategy and the absence of strong political direction left the CDS and the DM without a clearly defined objective toward which to steer DND and the CF. The pressure of externalities, such as NATO strategy and unpredicted UN missions, presented defence planners with a haphazard agenda. In this situation, the services, public servants and other internal interests groups found opportunities to advance their favourite projects and they did. Naturally, they reacted against efforts to clarify policies and authority when they appeared inimical to their interests. Thus the defence program and NDHQ generally continued in their characteristic "random management" ways. Leaders were unable to overcome this bureaucratic inertia partly because they were dependent on officers and officials who saw little need — from their parochial positions — to change much of substance (Bland, 1987a: 175-182).

The absence of political direction and the random nature of defence administration impedes incentives for change at senior levels in NDHQ because no other direction and no other system of management seem any better than the extant system. That is not to say that there is no recognition of the need to change the structure and methods of the defence

establishment. Since 1970, NDHQ initiated at least seven major studies and reviews of the structure for command of the CF and each made proposals for reform. None, however, resulted in any meaningful change to the status quo. Problems identified in the mid-1980s still plague NDHQ in 1994 (DND, 1994).

For example, a critical study, the so-called Little-Hunter Report prepared in 1988, examined the role of NDHQ in crisis and war (DND, 1990). The CDS, General Manson, commissioned the report because NDHQ had failed in every attempt to direct CF operations. The study identified the confusion in responsibilities and authority between the CDS and the Deputy Minister and the resulting confusion in the staffs at NDHQ as the primary cause of the failure of NDHQ as a command centre. Rather than attacking this basic issue, however, the new CDS, General de Chastelain, received the report and dismissed it because he thought "it had been overtaken by events...and [would] not likely be a departmental priority in the near future" (DND, 1990: 1). Instead, de Chastelain and the Deputy Minister, Fowler, confirmed the diarchy of the CDS/DM and the amalgamated structure of NDHQ. The problem, as usual, was that no one could define a command concept for the CF and neither the CDS nor the DM were prepared to suffer the consequences to their power that would result from reorganizing the CF and DND into two separate entities.<sup>13</sup>

What repeated studies of NDHQ fail to explain, however, is why experienced senior people continually refuse to take action to correct a system that, as many of them have acknowledged, is weak and ineffective. Apparently, these leaders are willing (*vis inertiae*) to put up with their troubles rather than change the structure of NDHQ and risk encountering new and more vexing troubles, i.e., until they are confronted with significant administrative or operational problems they cannot avoid. But even then, the *inertiae* is so strong that leaders seem willing to focus on some other cause — a few bad apples, for instance — rather than any suggestion that the apple barrel might be the cause of their grief.

The NDA and regulations provide the only criteria for the command of the CF and the administration of defence policy. When they are not accepted and no other legitimate criteria exists, how is one to know in which direction to move? NDHQ is presently directed by individuals who rely "heavily on collective decision making, shared responsibility and subjective priority setting" (Auditor General of Canada, 1984: 12-2). They often see change aimed at clarifying responsibility, accountability and the criteria for priority setting as threatening to their status quo powers and arrangements. But because meaningful change can only result from

upsetting the status quo, there is an enormous inherent disincentive against any senior leader who might try to initiate change. This situation partly explains why reform in the department and the armed forces has usually come from and been directed by politicians, commissions and outside critics.

The "defence team attitude," an undifferentiated grouping of members of the CF and public servants, bureaucratic preference for treating the CF and DND as one entity as symbolized by NDHQ and confusion about civil-military relations in Canada combine to block meaningful defence reform. Senior officers and officials in NDHQ prize "getting along" above most other things. There is an obvious benefit to national defence planning when there is a high level of co-operation between the CDS and the Deputy Minister and their respective staffs. However, the mandates of the CDS and the Deputy Minister are not necessarily coincidental. Each has responsibilities in law and external pressures that prevent the perfect synchronization of their policy advice to ministers, and that situation naturally creates tension between the CDS and the DM.

Many chiefs of defence and deputy ministers, however, prefer to obscure these tensions. Otherwise ministers would be forced to choose between their advisers, and that effort might disrupt the consensus and agenda the defence establishment has created for itself. Therefore, CDSs and DMs usually strive for at least the appearance of unanimity, even when real agreement is an illusion. The danger is, however, that efforts to appear united might force critical decisions about ends and means down inside the bureaucracy and prevent problems that are more properly political from reaching the Minister. The so-called diarchical structure of NDHQ is an important symbol of CDS/DM co-operation and anyone who challenges it is quickly confronted with dire predictions of failure and confusion if the headquarters is changed (see Nixon's comments in Bland, 1995: 117-121; also Fowler, 1994: 5-8). When defence organizations mask difficult choices that ought to come before ministers, civil control of the military is corrupted.

Ministers ought to value the tension between the military and civil sides of their portfolios because it provides opportunities to test the policy choices they receive from NDHQ. When defence ministers encourage open discussions and expose different lines of reasoning among their military, political and scientific advisers, they are better able to control the choice of choices every public administrator must consider. This was Hellyer's position as Minister of National Defence. He organized his Defence Council to guard himself against officers and officials "flogging pet projects" who



treat the Minister as though he was “merely an unwitting passenger, rather than captain of the departmental ship” (Hellyer, 1990: 33).

However, ministers who have measured the advice they receive from their senior advisers and then made their own choices, have not always fared well in public opinion. It takes a brave captain to set off in a new direction when the principal members of the crew have already agreed that the safety of the ship requires a different course. The dangerous job of steering the departmental ship causes some ministers to shirk their duty, leaving the CDS and Deputy Minister with no choice but to make decisions that more properly belong to ministers. The crew, however, has habitually taken ministers for mere passengers and directed the ship toward their own goals.

No one in DND or the CF has ever tried to subvert the government, but many hands have tried to steer the ship. The lesson, therefore, is clear enough. If any reforms are to go forward, then ministers must be attentive to their duties and “preside” over DND and direct the CDS. But NDHQ was formed on the assumption that ministers could not or would not exercise their rights and duties. If that assumption were overturned, then the defence establishment might more willingly return to the dictates of the NDA.





## *A System in Trouble*

### FAILED STRUCTURES

Large public and private organizations can fall on troubled times without necessarily endangering society. Failed corporations merely cost their shareholders money and rarely produce long-term effects. Even when public services fail, the impact is usually local and recovery swift. When military organizations fail, however, by definition, individuals are injured and killed and societies may be placed at risk. History is replete with examples of failed military organizations and the disasters that followed.

Generally, armed forces fail when they lose their ethical anchor, their leadership is somehow corrupted or their structure is inflexible and otherwise inappropriate to the rigours of crisis or war. Sometimes, all three evils are visited on military organizations simultaneously. Unfortunately, it is often difficult to see fatal weaknesses in armed forces until they come under stress, and then it is usually too late to correct the problem quickly. Society, therefore, needs to watch for and redress these symptoms promptly.

In Canada, civil-military relations are floundering and uncertain. Recent events have exposed the problem, but they are only the current manifestation of weaknesses long resident in the structure of the defence establishment. National Defence Headquarters is a powerful institution and the symbol of the central problem of civil-military relations in Canada. It is an assertive organization that has thwarted the effort of many senior officers and officials to change the nature of defence policy, command of the CF and the administration of national defence. If civil-military relations are to be redressed, then the centre, NDHQ, must be reformed. Unfortunately, reforms will only be effective if errors in ethics, command and administration are simultaneously corrected. History illustrates, however, that reforms of this complexity require strong political direction and this is the dilemma for Canadians. The relationship between the government and the defence establishment is troubled because political lead-

ers have failed in their basic responsibility to supervise the armed forces of Canada.

#### A PROBLEM OF ETHICS

Any failure of ethics in the armed forces, especially in the officer corps, presents a serious problem in civil-military relations. Although the behaviour of officers is controlled by law, informal norms and customs developed from history play a crucial part in determining how officers react to society and to political control. Obedience of the armed forces to political direction and neutrality in political affairs depends on the willingness of officers to follow a code of conduct aimed at this result. Whenever the ethical foundations of the armed forces are weak and unsure, there is no assurance about how the military will react, especially in a crisis.

According to Richard Gabriel (1982: 71), a military culture that is under ethical stress will display several related traits:

the organization [will] profess an external code of ethics that is contradicted by internal practices; internal practices encourage, abet, and conceal violations of the external code; prospective "whistle-blowers" are intimidated into silence; the few courageous outspoken men have to be protected from organizational retaliation; collective guilt finds expression in the rationalization of internal practices and those whose role it is to reveal corruption rarely act, and when forced to do so by external pressures, they excuse any incident as an isolated rare occurrence.

The degree to which the CF, and more particularly NDHQ, is infected with this ethical malaise is difficult to judge with precision, but many experienced officers, officials and informed observers have commented on the symptoms for many years.<sup>1</sup>

Concern for the ethical well-being of the CF is not new. The issue, however, was subdued until the landmark report on attitudes in the armed forces prepared by Charles Cotton in 1979. The Cotton Report apparently "jarred the collective conscience of those concerned with military affairs and the operational integrity of Canada's forces," meaning, of course, it upset the general officers most of all (Cotton, 1982/83: 10). Cotton's findings challenged the easy assumption that the armed forces would fight. More important, it exposed a deep and growing rift between the attitudes and values of officers and other ranks and revealed a contradiction between the ethics officers espoused and those they practised.

Simultaneously, a crisis in confidence erupted in the CF high command which, on the surface, seemed to stem from the 1967 policy to unify the armed forces. Senior officers, especially the commanders of commands, were convinced that the unified force and the amalgamated NDHQ was not adequately representing their service and collective interests. They argued that while some aspects of unification were worthwhile, the 1972 amalgamation of CFHQ with DND had "civilianized" NDHQ.

The commanders and many officers with experience in Ottawa believed that their professional advice was being second-guessed by public servants and they resented this intrusion. The chief villain in this piece was NDHQ because it dominated every aspect of defence decision making. Officers and officials were thought to be shaping advice to ministers despite the opinions of the commanders. Furthermore, commanders thought that public servants had more sway with the Minister than the CDS and his staff officers because civilians were more willing to tell the government what it wanted to hear. This effect, in their opinions, misdirected defence policy and defence priorities wrecking the operational capabilities of their commands. At the heart of the controversy, however, was a profound worry that the CF had lost control of its professional direction.<sup>2</sup>

In 1980, the newly appointed Progressive Conservative Minister of National Defence, Allan McKinnon, established a task force of outside consultants to examine the effectiveness of unification and to review the complaints he was hearing from the officers inside and outside NDHQ. Before the report was completed, the government was defeated and McKinnon's report was delivered to the new Liberal Minister, Gilles Lamontagne, who was not enthusiastic about its recommendations. The Minister, the CDS, Admiral Robert Falls, and the Deputy Minister, "Buzz" Nixon, acted promptly to bury the report. The agent for the burial was another assessment headed by then Major-General Jack Vance who "reviewed" the task force report and made a different set of recommendations.

Vance's report down-played many of the criticisms about defence administration, but highlighted the decline in military values generally. Vance declared the CF was facing a dilemma as a profession because "civilian standards and values are displacing their proven military counterparts and, in the process, are eroding the basic fibre of the Canadian military society." Consequently, he concluded, "the Forces are facing a crisis of the military ethos" (DND, 1980b: 18-19). Vance recommended that the CDS develop a statement of the ethos of the CF and linked that

recommendation to the ideas that "operational readiness" and "will it work in conflict" ought to become the governing criteria for all CF and NDHQ endeavours (DND, 1980b: 3-4).

A scholarly study completed in 1982 by Peter Kasurak joined the weakness of the military's ethical base to the encroachment of the public service into areas that had once been the preserve of military officers alone. He found that "a significant number of the members of the armed services [had] come to believe that the Canadian Forces [had] adopted civilian norms and standards to an unacceptable degree and that civilian [sic] public servants exercise undue influence over matters that are (or should be) exclusively military in nature" (Kasurak, 1982: 109). While the fact of public service influence over military matters might have been in dispute, the commanders of commands and many other officers perceived it to be overwhelming. Furthermore, loyalty in the military hierarchy was splintered because many officers in the field and in NDHQ believed that the CDS and his immediate subordinates at least acquiesced in the intrusions of public servants into military decisions (Bland, 1995: 103-106).

Not every officer and few officials agreed with these charges and little sustained interest or real action followed. Some chiefs of defence and other officers believed that the military and public servant components of the defence establishment had to co-operate and that the best way to do so was through the joint management of defence policy. Nevertheless, many officers continued to question the actions of their leaders and the influence of public servants in military affairs. By the mid-1980s even officers and officials who saw advantages in the close co-operation of military officers and public servants began to worry about the NDHQ arrangement. General Ramsey Withers (CDS, 1980-1983) and Deputy Minister Nixon tried to resolve the bitterness that was mounting between their respective subordinates but without much success. Withers' successor, General Gerald Theriault, (CDS, 1983-1986) and the new Deputy Minister, Bev Dewar, faced even greater challenges as the commanders in the field gained power and influence — thus fracturing the establishment yet again.

The signs of a systemic breakdown of ethics in the defence establishment were subtle, but real and very serious. Both Theriault and Dewar complained while in office that NDHQ was essentially out of control. They criticized "service-driven agendas" and staff work that compromised the policy process, but felt they were helpless to redress the problem. According to the CDS, some officers and factions in NDHQ were simply "creating commitments to enhance their own interests." Meanwhile, the



strategic rational for the defence program became increasingly suspect, capabilities atrophied and the ability and interest in operational planning gradually disappeared at NDHQ (Bland, 1995: 240-252). Officers, in effect, had abandoned their co-operative responsibilities in favour of narrow and, usually, service-based interests.

In the early 1990s, hidden tensions came to the surface. The CF was under stress from changed missions, reduced budgets and increasingly dangerous and difficult missions, especially in the former Yugoslavia. "Doing more with less," if it is possible at all, requires obvious leadership, but soldiers and junior officers seemed saddled with notional leadership. Senior officers did not demonstrate that they understood the pressures placed on units and rarely took a stand before their political masters. Officers appeared to have abandoned the primary, military ethic embodied in the notion of "loyalty downward" in their zeal to portray their "can-do" loyalty upward to politicians.

After the CF operation in Somalia in 1992-1993, the armed forces were racked by a continuous series of scandals, courts-martial, investigations and officer infighting that led some commentators to declare that the CF was in the midst of a "crisis of command" — a collective failure of senior leaders. At the beginning of the Somalia investigations, most officers and soldiers were willing to believe that a "few bad apples" had caused the troubles in Somalia. When, however, the courts-martial handed harsher punishments to soldiers than to their officers and when senior officers excused their behaviour and dodged responsibility for the state of the units involved, a deep schism opened between officers and soldiers. The crisis in command came to mean a failure in leadership caused by an abandonment of military values.<sup>3</sup>

Ironically, as the reputation of the officer corps crumbled, soldiers rose to carry the ethical burden of the armed forces. Non-commissioned members and retired junior soldiers led a campaign that uncovered fraud, deception and the dereliction of duty in the officer corps. No officer apologized for the state and actions of the CF in Somalia and no officer called for a new broom to sweep the forces clean. Soldiers, on the other hand, worried about the military's ethical health and some were more than willing to scold those who had disgraced the CF.<sup>4</sup> But still the reputation of the CF slides downward.

This atmosphere was masked by a certain self-deception in parts of the officer corps that held a romantic notion of themselves as leaders and commanders of the world's best soldiers. Eventually, internal criticism was snuffed out because promotion and access to command hinged on

advancing this perception. Faults were passed by. "Merit," the putative basis for promotion, was increasingly based on a subjective system that few officers believed to be valid. "Special handling," a type of regimental nepotism in the army, favouritism, undue credit for "potential" overperformance and the lack of objective standards for deciding suitability for command, replaced a failed performance evaluation system (Auditor General of Canada, 1990: 438-512; and 1992: 101-105).

Gradually, this highly inbred officer corps became ethically immobilized, unable to resurrect its ethos for fear of exposing systemic weaknesses but unable to maintain its corporate identity without advancing its traditional values. This ethical dilemma is confounded at the centre by the amalgamated structure of NDHQ where officers, even if they were disposed to radical change, seem unable to act independently to change the CF because they, and the armed forces, are wholly, but randomly, intertwined with public servants in a collegially directed "defence team." This situation did not arise through happenstance. The common thread in this history is the almost imperceptible, but real, abandonment by officers of the military ethos — "the characteristic spirit" of the profession — by those sworn to uphold it.

#### A PROBLEM OF STRATEGY AND COMMAND

These underlying ethical problems are matched with a sense of strategic misdirection and organizational confusion and ineptness, especially after the end of the Cold War in 1989. Defence policies declared with fanfare in 1987, have proved hollow.<sup>5</sup> But worse, NDHQ and senior officers and officials seemed incapable of accepting a new direction in the face of an obviously changed strategic environment. Indecision commanded and arguments erupted in NDHQ when politicians could not decide and officers and officials proved incapable of new thinking.

The break up of the Soviet Union in the late 1980s collapsed, as well, the strategic rationale for the structure and defence program of the CF. The last hurrah of Cold War policy planning in Canada was the 1987 white paper on defence, *Challenge and Commitment: A Defence Policy for Canada*. The Minister of National Defence and the CDS promised the CF "a modern and realistic mandate...[and] the tools to do the job" (DND, 1987: iii). NDHQ assigned senior officers to visit bases and units to encourage soldiers to support the government's initiative. Commanders eagerly accepted the word of the Minister and the CDS and staked their reputations on the government's promise to restore direction and pride to

the CF. Within two years, the government and NDHQ had abandoned the white paper and, according to some, the CF.

There were perfectly valid reasons to reassess defence policy in 1989 because the very nature of the threat and the appropriateness of CF commitments had changed beyond recognition. However, the breadth of the government's cuts to the defence budget in 1989 — while the fact of commitments remained — caught the CF off guard. Officers soon realized that no reassessment had taken place. The government, with the aid of the CDS and the Deputy Minister, had instead made decisions that seemed arbitrary to the commanders and to the troops in the field. Although the CDS had declared in 1987 that equipment was “rusting out” and missions could not be met in the future without the resources promised in the 1987 white paper on defence, the CDS, Manson, and the Deputy Minister, Fowler, saw no contradiction in accepting a program in 1989 that could only result in what they had advised against in 1987.

Senior officers felt betrayed because they were not consulted, but would have to explain to their soldiers changes they did not support. In these circumstances, many officers assumed that the government's rapid *volte face* and the negation of its promise to provide tools for the job would cause the CDS and other officers to resign on a point of honour. None did. Officers and soldiers were first surprised, then resentful, and finally sullenly resigned to the idea that no one valued their contribution, understood their needs nor represented their points of view.<sup>6</sup> Soldiers in the line, their expectations of fair treatment shattered, began to see themselves on one side of a line and their senior leaders on another as defence commitments in dangerous places, such as the former Yugoslavia, continued unabated.<sup>7</sup>

In 1990, the Vice-Chief of the Defence Staff, Vice-Admiral Charles Thomas did resign “in protest” because, in his view, neither the government nor General de Chastelain, the CDS, seemed able to make rational choices for the CF. However, as the armed forces wilted under successive budget cuts, no senior officer, except Thomas, appeared ready to defend the CF openly. Instead, the CDS and other commanders continued to maintain that every task presented to the CF could be met, even with fewer resources. Thomas' protest, in fact, was belittled by the CDS and the Deputy Minister who portrayed Thomas as merely a disgruntled sailor (Bland, 1995: 271-272).

David Collenette introduced his defence white paper in 1994 in which he outlined further cuts in military capabilities, but no letup in commitments. At a press conference announcing the new policy, de Chastelain

was asked whether he could live with these cuts. He responded, "I learned a long time ago not to draw lines in the sand over which I could not step." Some would contend that the CDS is supposed to draw lines in the sand, if only to protect the CF from over-eager politicians.

Canadian defence strategy is usually thought of as a residual of the decisions and interests of major states. Furthermore, in Stephen Harris's words, Canada has been content to lend troops to fill some need in the plans of other nations or alliances or to the UN. Canadian officers provide, but they do not lead. Consequently, the central mechanism for strategic decision and command has evolved very unevenly and slowly (Harris, 1980). Indeed, in 1961, the Glassco commissioners declared that "the headquarters organization in DND is one of support rather than operational command" (RCGO, 1961: 67). It is remarkable that no officer challenged this extraordinary view at the time. This persistent notion caused great difficulty for the government during the Cuban missile crisis in 1962 (Haydon, 1993) and contributed to the failures of command in Somalia in 1993.

Evidence that serious command and control problems were inherent in the 1972 organization of NDHQ were obvious, even before 1987. Nevertheless, so long as Canada's military commitments remained only a promise in the context of the Cold War, these problems remained hidden from the public. NATO and CF exercises, however, revealed that the armed forces were incapable of meeting commitments and that command arrangements were flawed. In 1980, the Commander of the CF in Europe reported to the CDS that the central command system was inflexible and inadequate and could "result in the breakdown of national command" (Bland, 1995: 183). Other exercises, such as the 1985 test of CF plans for deployment to north Norway confirmed the commander's assessment (Bland, 1995). Yet no substantial actions were taken to redress the basic problems.

As noted earlier, the continued failure of NDHQ as an operational planning headquarters prompted the CDS, General Manson, in 1988 to convene a study of the role of NDHQ in emergencies and war. The Little-Hunter Study, conducted under the supervision of then Lieutenant-General John de Chastelain, confirmed what everyone knew. There was no strategic concept for the CF; the command responsibilities of the CDS and NDHQ were compromised by the 1972 amalgamation of CFHQ with the departmental organization; and responsibilities for command and control were diffused and unclear (Bland, 1995: 191-198). Unfortunately, when de Chastelain became CDS in 1990, he dismissed his own report and nothing of substance was done to correct the deficiencies.



Command and control problems continued. In subsequent operations in the Gulf War, at home during the Oka crisis, in Bosnia and in Somalia, staff officers and commanders continued to report that plans were inadequate, command arrangements unreliable and responsibility unclear.<sup>8</sup> Generally, poor command systems and commanders can be rescued by good units and their commanders, and that phenomenon continued to sustain NDHQ and the CF in the field. When, however, this system was matched with a poor unit, the whole collapsed. It was during the pre-deployment period and the subsequent operation in Somalia that the real dangers of this fundamental crisis in CF command became deadly.

NDHQ has, since its inception in 1972, evolved as a support headquarters. It has shown repeatedly that it is incapable of formulating defence strategy from a national perspective or of commanding the CF far from home. The effects of these failures are seen in the distance but the cause is at the centre. Although some contend that the command arrangements of the CF are a professional military matter, they are a sentinel feature of civil-military relations. Civilian control of the military and the national command of armed forces are inseparable. If national command is passed to foreign or allied commanders, then decisions about the employment and accountability of those forces slip from national political control.

The relationship between the command of the CF and political control of the armed forces is so critical that it must be a first order concern of the Minister of National Defence and Parliament. Therefore, insofar as NDHQ is the centre for command decisions, politicians must ensure themselves that its structure is appropriate, effective and in keeping with the acts of Parliament. Few ministers have grasped this important aspect of the portfolio. Recently, however, the Special Joint Committee of the House of Commons and the Senate reported that "whatever our individual views on particular issues of defence policy or operations, there was one matter on which we agreed almost from the beginning — that there is a need to strengthen the role of Parliament in the scrutiny and development of defence policy" (Canada, 1994). The command and control of the CF is a fundamental part of that policy.

#### A "DEFENCE TEAM" PROBLEM

National Defence Headquarters has had great difficulty preparing policy advice acceptable to the government, and planning and conducting military operations ever since its formation in 1972, but especially since 1987. The founders of the amalgamated headquarters would probably argue

that NDHQ was not meant to provide either of these functions. In 1972, as noted elsewhere in this study, strategic policy planning and the command of CF in the field were thought to be the province of allied headquarters and commanders. The authors of the MRG report that provided the rationale for NDHQ declared that the "principal difficulties" they intended to correct were an "inadequate [system] of management" and a departmental process that placed "excessive demands...on the minister personally" (DND, 1972: i). The MRG report does not once mention war or conflict, the obvious *raison d'être* for armed forces.

The main objective, therefore, of the MRG recommendations was to improve defence administration and thereby, they hoped, the "operational aspects" of the armed forces. Although they did not examine the basic premises underlying the NDA or the civil-military impact of their recommendations, the MRG decided that "the first step toward a better, more effective and efficient defence establishment must be the restructuring of the department as a single entity" (DND, 1972: iv). The consultants did acknowledge that their recommendations would require "statutory amendments" and "other formal transfers of responsibilities and functions by Order-in-Council," and they stressed the importance of taking these actions quickly (DND, 1972: xi).

The MRG underestimated the complexity of the amendments they recommended. When the report was presented to the Defence Committee of the House of Commons, members of Parliament immediately exposed the fundamental realignment in Canadian civil-military relations implied in treating the CF and DND as a single entity. They criticized, in particular, the recommendation that changed the relationship between the Minister of National Defence, the CDS and the Deputy Minister by requiring the CDS to report to the Minister through the Deputy Minister. Edgar Benson, the Minister of National Defence, wilted under this protest and essentially withdrew the report from public view.

The experience before the Defence Committee convinced the Minister and his officials that a public debate about changing the structure of the defence establishment would produce a frightful political row. Rather than introduce in Parliament amendments to the NDA to confirm the main aspects of the MRG recommendations, Benson left the report with the CDS and the Deputy Minister who worked out their own arrangements for the newly established NDHQ. The main result of that bureaucratic exercise was to accept the notion that DND and the CF were one entity and to use that idea as the basis for the structure of NDHQ.<sup>9</sup>

The single entity idea, however, has no basis in law and, therefore, it cannot provide for a single operating head for the combined headquarters. Furthermore, the CDS in 1972, General Dextraze, resisted efforts by Sylvain Cloutier, the Deputy Minister, to lead the new establishment and, as a result, the CDS/DM diarchy was accepted as a compromise. The diarchy at the top and the amalgamation of CFHQ and the departmental staff into NDHQ eventually more or less combined all the staff functions of the CF and DND. Thus the "defence team" notion was born, although the term only came into vogue in the late 1980s.

The defence team idea led to the unregulated combining of functions and responsibilities within the defence establishment. Members of the CF were placed in positions over public servants and public servants over members of the CF. Staffs were combined under military and public service leaders. Public servants in the combined office of the Assistant Deputy Minister (Personnel) gradually assumed increasing responsibility for the career management of senior military officers, though usually under military direction. Often these types of activities proved beneficial to the CF and DND, but they also created serious negative effects and they were almost always at senior levels.

Staff officers in NDHQ were never sure whether they were reporting to the CDS or the Deputy Minister, or both. More serious were the oft heard complaints in NDHQ that no one knew for sure from whom orders and directions to the CF were emanating. The CDS and the Deputy Minister tried to assuage this problem by inventing the CDS/DM device. Orders, documents and minutes of high level committees carried the notation that they were issued by the CDS/DM. Unfortunately, this reassurance only made things doubly unsure. Now officers and public servants did not know who issued orders, but they were presented with an entirely new phenomena that had no legal basis or persona. This situation became increasingly difficult as junior officers, copying the habits of their military leaders, began to accept direction from senior public servants as though those officials were officers. Furthermore, war planning and the criteria for such things as operational readiness and military advice eventually passed from military staff officers solely responsible to the CDS to groups of individuals under civilians such as the Assistant Deputy Minister (Policy).

The greatest difficulties arose whenever officers and officials differed on what advice to place before ministers. Traditionally, officers try to find a politically acceptable option for the government, but they are not acting responsibly if they offer compromises that might harm national

defence or soldiers in their care. Public servants, on the other hand, may be more flexible. They can take the long view and are not tied to the soldier's code. In a system in which ministers expect these diverse views to come forward, no permanent harm arises from them because ministers will finally decide. However, serious civil-military problem can develop in a system in which different views must be settled below the Minister.

It was just this type of problem that caused the rupture between the CDS and the Deputy Minister in NDHQ on the one hand and commanders of commands on the other in 1980. The commanders, as noted earlier in this paper, attempted with some support from the Minister to overthrow NDHQ. Their main complaints were that operational interests were not being given adequate representation in NDHQ and that the defence agenda was too much under the sway of public servants and the Deputy Minister in particular. Although this internal coup changed nothing of substance, the event should have warned everyone that the "defence team" was not entirely dependable.

Soldiers were not the only ones to complain. Nixon also complained in public and in private that officers were generally incompetent managers and interfered with the efficient operation of his department. In 1980, he declared to the CDS that he would go to the Minister and attempt to separate the CF from DND unless he could have complete control of the selection of officers for employment in NDHQ. The CDS declined the challenge and the Deputy Minister relented (Bland, 1995: 117-121). Again, the defence team was found wanting.

All might have been well had the creation of NDHQ solved the problems the MRG attributed to a defence establishment based on two separate entities. Unfortunately, the problems of mismanagement and waste continue. The Auditor General of Canada regularly issues adverse reports about DND, and they are not simply statements about the loss of a few million dollars. The Auditor General has remarked on the failure to provide a clear and credible strategic statement for the department's programs; the lack of adequate planning; the lack of sound management practices; and a failure to manage effectively people, resources and capital projects. They are precisely the same criticisms made by the MRG in 1972 (DND, 1972: ii-iii). However, the Auditor General has also criticized the failure of NDHQ to maintain operational standards in the armed forces. Here, comments are directed not at managerial weaknesses, but at the collapse of fundamental military procedures and responsibilities (Auditor General of Canada, 1994, volume 5, chapter 24: 24-24 to 24-27).



Meeting political needs without compromising military ethics, managing a large organization and billions of dollars of public money, maintaining operational effectiveness with scarce resources and controlling tensions between two entities with related but distinct mandates are the ever present problems of the defence establishment. They do not, however, arise as a consequence of organization alone. No organizational scheme will create more from less or eradicate competition among strong personalities, but some types of organization can aggravate these problems.

The “defence team” idea was introduced to provide an organizing concept for the defence establishment that had lost its way since 1972. Before 1972, the defence of Canada was organized, according to law, into two separate entities each with specific responsibilities under the Minister of National Defence. Each entity, moreover, had its own unique concepts that provided a basis for organization, leadership, authority, accountability and ethical behaviour. These conceptual frameworks, while similar in some respects, are not interchangeable.

Attempts to patch together a defence team concept of ethics, for example, were premised on the need to bolster the defence team. The defence team allows for only one ethic, not two. Therefore, because the defence team was declared to be the greater good, any differences in military and public service ethics — obedience unto death, for instance — that might have disrupted the team, had to be set aside.<sup>10</sup> Similarly any other concept or set of concepts that is incompatible with the defence team idea, has to be adjusted, compromised or discarded if it threatens the cohesion of the defence team. Obviously, the first idea that must be discarded is the notion that the CF and DND are two separate entities, but to do so one must also ignore the observation by the Judge Advocate General that “to refer to DND and the CF as if they were the same organization is incorrect and has significant legal consequences” (Judge Advocate General, 1988). One cannot have it both ways.

There is little harm in using the term defence team to encourage co-operation between members of the CF and public servants. When, however, the term is meant to provide an organizing concept for the defence establishment and leads to policies intended to combine authority and responsibility in ways not intended by the NDA, then the idea can be subversive of civil control of the armed forces. The two elements of the defence establishment lived together separately before 1972; in fact, that was their normal circumstance. The relationship was occasionally stormy, but more often than not officers and officials joined in a common cause

to provide for national defence or whenever outside agencies challenged part of the establishment. A defence team spirit can be built and maintained around the mission of the CF and DND. But that effort does not require the corruption of ideas that Parliament enacted to ensure its control over the armed forces of Canada.

## *Four Steps Forward, One Step Back*

### STEP ONE: STRENGTHEN THE ROLE OF PARLIAMENT

The French premier George Clemenceau (“the tiger”) is quoted as saying in 1917 that “war is too important a matter to be left to the military.” The continuing relevance and importance of this notion was highlighted in 1994 by Parliament’s Special Joint Committee On Defence which reported that “there was one matter on which we agreed...that there is a need to strengthen the role of Parliament in the scrutiny and development of defence policy” (Canada, 1994: 57). NDHQ is, indeed, the centre for policy formulation, operational command of the CF and defence administration. But because it is an assertive and not a benign institution, it resists change. This opinion is supported by experienced senior officers and defence officials who complain that the institution they thought they controlled is largely unregulated (Theriault, 1994: 15). Since 1980, NDHQ has been occupied by six chiefs of defence and three deputy ministers, yet the problems identified in the early 1980s remain in place today. Organizational changes alone will not change NDHQ. Regaining Parliament’s control over defence policy and the operations of the CF, therefore, demands that Parliament, assisted by competent officers and officials, change the nature of NDHQ.

Most observers acknowledge that a comprehensive program aimed at reforming the defence establishment — even one centred on the law, organization and ethics — will not advance rapidly or completely without political direction. Therein lies the dilemma for defence reformers in Canada. NDHQ became an assertive organization and has resisted change principally because defence ministers have not always actively supervised their portfolios. The first reform, therefore, must be a reform of Parliament’s attitude toward its responsibility for national defence.

There have been many attempts to change NDHQ. They have all failed because they focussed on organization and missed the essence of the

problem that resides in the structure. Regaining control of NDHQ requires more than the reorganization of a few lines and boxes on a chart; actually, those lines and boxes are hardly a priority at all. As defence reformers in other nations have discovered, changing defence structures demands an examination of founding concepts and the redirection of human behaviour more than an organizational fix.

Writing about the American experience, Edward Luttwak noted that "the belief that the true workings of complicated institutions can be seriously improved by tinkering with their formal structure is one more symptom of the 'administrator's delusion'; but after a great many new letterheads have been reprinted and many new signs provided for office doors, one usually discovers that the real problems persist" (Luttwak, 1985: 276). Changing NDHQ to overcome its principal problems requires a multifaceted reform of the defence establishment directed by political leaders and followed by a comprehensive restructuring of the mechanisms for political control, national command and administration of defence policy and the armed forces.

The aim of the reforms suggested here is to segregate the power that has accumulated in NDHQ since 1972. Specifically, the intent should be to separate and make distinct — but not to isolate — responsibilities for policy making, military command and defence administration. Once this segregation is complete, Parliament will regain control of defence policy and accountability for the control and administration of the CF and DND will be unambiguous. Reaching these objectives however, will require Parliament to lead three main initiatives.

Parliament must reassert the legal basis for defence organization, separate military command from defence department administration and insist on an ethically directed decision-making process in the armed forces and DND. There is no need to rewrite the *National Defence Act*. But Parliament should demand of itself, officers and officials that the defence establishment conform to the spirit and to the letter of the Act.

Although some individuals fear the segregation of officers and officials into two major staffs believing it will cause friction in the defence establishment, cost a great deal and ruin co-operation, there is no evidence to support these predictions. Anyway, segregating the CF and DND staffs need not create such problems. There is a degree of flexibility in the NDA about who might be employed in support of the CF and DND, but the CDS and the Deputy Minister ought to have their own separate and distinct staffs appropriate to their responsibilities.

The NDA contains other organizational directions intended to strengthen the hand of the Minister and to reinforce accountability in the CF and DND and these must be maintained in any reform of the defence establishment. Reforms should confirm, for instances, the place of the Judge Advocate General directly under the Minister of National Defence. It should also reinforce the position of the Minister of National Defence and enhance Parliament's role in defence matters by making provisions for a committee of the Senate and the House of Commons to play an active part in the direction of policy and the CDS.<sup>1</sup> Finally, political leaders must insist that ministers, officers and officials adhere to laws regarding military organization, command authority and discipline (among other things) as well as the terms of reference and lines of authority meant to differentiate the powers and authority of the Minister of National Defence, the CDS and the Deputy Minister. Parliament must be attentive to its duties.

#### STEP TWO: CONFIRM THE LEGAL BASIS FOR THE DEFENCE STRUCTURE

The NDA sets out two separate, but related entities, DND and the CF over which the Minister of National Defence presides, aided by the Deputy Minister and the CDS who have variously related, but separate, responsibilities for the DND and the CF respectively. They are independently accountable to the Prime Minister and the Minister of National Defence for the management of DND and the "control and administration" of the CF respectively. The CDS is also accountable to the Governor General and, from time to time, responsible directly to premiers of the provinces (and not to the Prime Minister) for certain operations of the CF in "aid of the civil powers." In effect, the defence of Canada — the product of policy, command and administration — is a shared responsibility.

While some might perceive this arrangement as untidy and ambiguous, this perception fails to appreciate the intent of the arrangement. The NDA is intended to provide checks and balances on those who have access to the power inherent in the armed forces. It attempts to address the four tenets of civil-military relations in modern states in keeping with the organization of authority and accountability that fall out of the NDA, i.e., it places the CF under the control of civilians elected to Parliament; restricts the use of the CF by the government of the day; provides clear instructions for and an instrument to maintain discipline in the CF; and



guards the prerogatives of ministers to decide defence policy and to direct the armed forces. The NDA also clearly shows that the government is responsible for the formulation of national policy, the CDS is responsible for the command of the CF and the Deputy Minister is responsible for the public administration of the defence department. Ambiguity only arises when politicians, officers or officials permit it by, for instance, confusing shared responsibility for national defence with collegial responsibility for its various aspects.

Although the Minister of National Defence "presides" over DND he or she is not part of the department. Ministers usually maintain an office within the department from which they conduct ministerial business and another office on Parliament Hill for constituent business. The Deputy Minister may act as a political adviser to the Minister and usually provides support to the Minister's office. The relationship, however, always depends on the idiosyncrasies of the Minister. What is germane to this paper is the fact that although the CF and DND are separate statutory entities, the Minister of National Defence remains responsible and accountable for the activities of the CDS and the Deputy Minister (see Molot, 1994: 276).

The NDA provides for a department of defence but it is largely silent regarding the organization of the department. The Act only stipulates that there shall be a minister, a deputy minister, no more than three associate deputy ministers, a Judge Advocate General and, possibly, an associate minister.<sup>2</sup> Traditionally, the department has been organized according to Treasury Board and other regulations under the Deputy Minister into three main branches: finance, civilian personnel management and defence procurement.

The Deputy Minister requires a staff and procedures to assist the Minister of National Defence, to aid the CDS, and to fulfil his or her many departmental duties. It is important to recall that the Deputy Minister's duties in relation to the CF are customary and do not fall out of the NDA. Some might contend that the Deputy Minister's most pressing obligations come from acts of Parliament dealing with financial control and the employment of public servants. These ancillary and supporting responsibilities are critical to the CF, especially as they relate to government wide operations, and the Deputy Minister needs support staff to meet them.

Parliament, by section 18 of the NDA, made the CDS responsible for the control and administration of the CF subject to the regulations and, as noted previously, "under the direction of the minister." But the CDS's responsibilities are not delegated from the Minister. The Act gives the

CDS direct authority within the CF, except in a few unique instances. While the NDA provides that the CF shall consist of three “components” (regular, reserve and special forces) the detailed organization of the armed forces is left mostly to the discretion of the Minister and the CDS. The Deputy Minister has no authority in this area whatsoever, although he or she might provide advice on the financial implications of the organization of the CF to the Minister and the CDS.

The structure of the defence establishment before 1972 followed precisely the letter and the spirit of the NDA. It was composed of the Minister and two entities, DND and the CF, each with an identifiable head. Furthermore, each had staff and line elements designed to service the particular needs of their respective heads. This structure not only reflected the provisions of the law, but it also provides Parliament with an unambiguous picture of responsibility and accountability in the defence establishment. Any proposals to reform the current defence establishment in Canada should aim to replicate this clarity.

#### STEP THREE: REFORM THE STRUCTURE FOR COMMAND

Clearly, the CDS cannot begin to meet all the complex responsibilities unaided and, therefore, the first CDS organized his own headquarters, CFHQ, to advise and help him in 1964. That headquarters evolved over time, but always contained military branches for intelligence, operational planning, logistics planning and personnel administration. CFHQ was solely responsible to the CDS and was the mechanism through which the CDS exercised command and control of the CF. The CDS was supported and authority delegated to subordinate officers, in accordance with the NDA, through a traditional military system of command (Bland, 1995: 71-84).

Military command, as already discussed, is a complex and difficult activity. While few would agree with Brooke Claxton that military command is “almost mystical,” most would agree that to exercise command well requires training, experience and sound judgment. Command by a single man on horseback, however, long ago passed into history and even small armed forces and seemingly simple operations present senior commanders with complicated problems. A well trained and exercised military staff is critical if commanders are to plan and control modern military operations successfully. Though the CDS might only occasionally direct military operations in a conflict, he or she must organize, train and practise a national central staff to assist in such circumstances.

The reform of the CF system of command and staff, even if there were no wider reform of the defence establishment, ought to be pursued vigorously. A program for command and staff reform ought to be developed around three main ideas. First, it should aim at developing a cadre of CF officers of a higher loyalty separated from service preferences and direction. Second, these officers must be provided with an appropriate education and opportunities to train realistically in their primary duties. Finally, advancement and influence in the command and staff stream must be based on true merit and intellectual achievement.

Command, as noted previously, demands high ethical standards. Therefore, any military reform must not only identify this ethical component, but it must install a means to discover and remove any contradiction between declared ethical standards and those actually practised. It is particularly important to draw the command ethic from Canadian social norms, laws governing armed forces and customs of military service. Furthermore, this command ethic must be introduced to officers early in their careers and reinforced through subsequent and continual training, by disciplining officers who transgress the code and by the example of leaders.

Canada, perhaps for the first time in its history, must take sovereign responsibility for the armed forces it deploys on any mission, as part of any organization, in any part of the world. The seemingly easy days of alliance are over and experience shows that no government and no CDS can allow the CF to deploy overseas except under unambiguous national command. Former CDS, General de Chastelain, concluded in 1994 that because Canada is more willing to accept military missions on its own, "we are going to have to be able to stand on our own...and command multi-service operations a long way from home" (as quoted in Bland, 1995: 207). This means that CF officers must independently assess international situations and make plans to support and control units on such operations based on orders and regulations derived from Canadian interests and principles. Achieving this capability will require a rebirth of the military profession in Canada. The CF will need a unified system of command, a rigorous process for the selection of commanders based on true military merit and a system of professional education suited to Canadian circumstances.

#### STEP FOUR: REBUILD THE ETHICAL FOUNDATION

Above all else, however, taking command of the CF must begin with the reform of individuals. That is the first challenge for the officer corps and

it begins with a personal commitment to fulfil the Sovereign's "special trust" and the expectations of Canadians.

No one imposed an ethical crisis on the CF. It arose gradually, but perceptibly, as compromises broke the defining spirit of the armed forces. In Canada, the external code was contradicted by internal practices. As Gabriel records of the American military, criticism became equated with disloyalty and officers stood by as the careers of outspoken comrades went down in flames, arbitrariness replaced fairness and brotherhood was abandoned to self-centred careerism. The commander of one Canadian brigade charged that "there is a widespread belief [in the army] that political agendas and careerism have replaced leadership in the defence hierarchy."<sup>3</sup> Worse, senior officers came to be seen as loners bent on avoiding responsibility and attributing every failing to outside forces. Inaction, indeed, does sometimes speak louder than words.

The Canadian officer's ethos is not hard to describe nor to meet. The code is declared in bold letters above the entrance to The Royal Military College: "Truth, Duty, and Valour." What officers "promise to do" is written on the commissioning scroll handed to every officer by Her Majesty. She commands officers "to exercise and well discipline in arms" their subordinates and "to keep them in good order and discipline." No officer can be faulted if he or she lives to this simple code and strives diligently to meet the Sovereign's commands. It is not perfection in these goals that is important, but the promise to live by them that separates the ethical officer from the mere person in uniform.

Officers of unquestioned integrity bonded by uncompromising professional standards and truly loyal to Canada above all else are unassailable. This high moral ground provides protection from those who would usurp the military's place in society. A strong rampart built on intellectual curiosity and intellectual achievement bars assaults from those who would invade the professional circle. Leaders accustomed to sacrifice who set clear professional examples will find their difficult duties amply supported by many willing hands. Being true to the profession of arms may never provide officers with unlimited political support for every military cause, but it will free officers from the tyranny of partisan politics.

Only CF officers who have taken command of themselves can take command of the armed forces of Canada. No one can force the Canadian officer corps to advance to the high ground of professional responsibility. CF officers must carry this banner forward on their own initiative. Reaching that high ground, however, must be the primary duty of every officer in the years ahead.



## ONE STEP BACK: REDISCOVER THE ESSENCE OF UNIFICATION

The mechanism for controlling the armed forces cannot be separated from the mechanism for defence policy making, commanding the CF and managing defence administration. Whenever there is disharmony between the mechanisms for civil control of the armed forces and the system for the general management and command of those forces, civil control usually suffers. This is the lesson from the era of the Cuba missile crisis and Paul Hellyer's unification battles and, apparently, from the Somalia affair. In each case, but for different reasons, the central machinery of the defence establishment became disconnected from government and, concurrently, authority and accountability within the defence establishment was discovered to be ambiguous and inappropriate to the needs of government. The answer to these problems after 1963 (when Hellyer became Minister of National Defence) was to enhance control and clarify accountability by simplifying the lines of authority within the defence structure. After 1972, however, the structure devolved under "collegial leadership" into what has been called "institutional ambiguity." The step back proposed here is a step in the direction of clarifying authority through purposeful simplification in accordance with the NDA and regulations.

The development of a strong national defence establishment in Canada during the Cold War era was inhibited by service sovereignty, the strategy of commitments and by confusion about civil-military relations. These three factors surreptitiously supported each other; the services relish the independent missions that the commitments provided because they reinforced service fiefdoms and autonomy. Confusion and ignorance about political responsibility for national command arrangements in the alliances along with political indifference, depreciated the issue. Thus, powerful service centres, Canada's loyalty to their commitments and the neglect of national command combined to strengthen the hinterland of command at the expense of the centre. These failings were the main cause for the confusion of command and the civil-military relations crisis in Canada during the Cuban missile crisis (Haydon, 1993).

Even in 1964, NDHQ still reflected the sovereignty of the service chiefs. The Chiefs of Staff Committee continued in its dull ways and the service chiefs routinely bypassed the Committee whenever they felt their interests demanded the direct attention of the Minister of National Defence. "It was," in the opinion of General Guy Simonds "a sheer waste of time" (as quoted in Bland, 1995: 42). The several "joint staff" committees that



attempted to find a consensus on issues and policies touching more than one service had no authority, and the members of the committees acted predictably to protect their service's interests on all important questions. NDHQ was missing the "final piece of machinery" for national strategic planning. There was no authoritative centre supported by a unified national staff that could relate external strategic factors and political and technological changes, "to the aims of Canadian national policy in any systematic fashion" (DND, 1963: 174).

Hellyer's reforms attacked this ineffective malaise directly. The CDS would be the centre of military advice and direction and would be supported by his own staff in CFHQ. The new military headquarters had no direct attachment to the Minister's or Deputy Minister's staffs nor any pretence to serve the Defence Council. CFHQ had only one other responsibility and that was to support and respond to commands.

Officers who were developing CFHQ in 1964, and it was a process controlled almost totally by the military, started from a classic military point of view. They understood the "functions" of the headquarters to be planning and decision making in six broad fields: intelligence, strategic planning, force development, requirements programming, training and operations, and logistics planning. Nevertheless, CFHQ was the CDS's headquarters. It provided a staff the CDS could use to direct the planning and operations of the CF, and there was little confusion or ambiguity within CFHQ concerning the unified staff's first responsibilities.

The CDS also controlled every aspect of CF operations and logistics and his advice prevailed in requirements and budgeting discussions before ministers. It is reasonable to suggest that had CFHQ been given time to mature and had the training system produced a corps of CF general staff officers, then the central headquarters would have become the long sought after and necessary instrument for the unified direction of the CF and national defence policy.

The integration of the armed forces and the restructuring of the headquarters did not greatly influence the civil service component of DND between 1964 and 1971. Indeed, the Deputy Minister's organization remained much as it had since 1950. Civil servants were organized to perform accounting and audit functions in the department and to assist the service chiefs in the preparation and presentation of estimates and budgets. Hellyer accepted the Glassco Commission's recommendation to increase the power of civilians in the department, but only as one of his advisers. "No thought [was] given to revising the concept of the role of

the civilians in the organization except indirectly, inasmuch as unification might appear to strengthen the civilian headquarters component by making "the odds against them more even" (Kronenberg, 1973: 61).

The 1972 restructuring of CFHQ and the departmental headquarters into NDHQ at least retarded Hellyer's efforts and many of the pre-1964 habits returned. Operational control of the forces floundered and authority and accountability in the defence establishment were blurred once again. Collegial decision making and defence by committees, the bane of the pre-unification era, returned. When this situation was coupled to political inattention, NDHQ, like the service-centred headquarters, became a bureaucratic arena where defence policy making, command and administration came under the control of personalities and adroit interest groups. Accountability was the first victim in this uneven contest.

Hellyer's reforms were prompted by serious concerns for civil-military relations in Canada and he strengthened the involvement and participation of the government in defence matters to overcome the problem. Macdonald's reforms, on the other hand, stemmed from administrative worries and he diminished political control of the armed forces in favour of civil service control of procedures. In the confusion wrought by the partial implementation of the MRG recommendations, real civil control of the defence establishment withered. Clearly, the 1972 MRG based restructuring of the defence establishment is as wanting as was the pre-unification service-centred system.

The government, therefore, should begin the reform of the defence establishment in 1996 by directing the Minister of National Defence to take one step back — to reject the 1972 concepts of the MRG and to embrace once more the ideas brought forward by Paul Hellyer in 1964. That is to say, the government should build a strong and effective mechanism for defence policy planning, command and defence administration based on an office for the Minister, a Canadian Forces Headquarters and a departmental headquarters. In this way authority and accountability will be obvious and the control of the Canadian Forces by Parliament, at least, manageable.

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## Notes

### CHAPTER ONE — INTRODUCTION

- 1 The word “parliament” is meant here as any national representative body having supreme legislative powers within the state.
- 2 See for instance, Kernahan and Langford, 1990; Kernahan, 1972; Stevens, 1978; and Santos, 1969.
- 3 In this study, the term “defence establishment” refers to the combined entities of the Minister and his or her office, the Department of National Defence and the Canadian Forces.

### CHAPTER TWO — THE BASIC CONCEPTS

- 1 “Civil” means control in accordance with laws exercised by civilians elected to Parliament, whereas “civilian” could mean control by anyone not enrolled in the armed forces, e.g., public servants.
- 2 On the concept of shared responsibilities, see Bland, 1995: 127-173.
- 3 *The National Defence Act*, R.S., 1985, c. N-5, updated to January 1991, (hereinafter, NDA) article 14.
- 4 Ibid. Interpretations.
- 5 *Constitution Act 1867*, article 10.
- 6 NDA, part II, article 18(2).
- 7 NDA, partII, article 18(2).
- 8 On the western experience and history of integrated defence ministries see, for example, McNamara, 1968; Stacey, 1970; Enthoven and Smith, 1971; Kronenberg, 1973; Martin, 1975; Johnson, 1980; Beckett and Gooch, 1981; and Art et al., 1985.
- 9 See *Interpretations Act*.
- 10 The term, “operational arts,” comes from the military theory of the former Soviet Union and has been taken into the western military lexicon. It means generally, “the practice of preparing and conducting

contemporary operations” somewhere between grand strategy and low level tactics. See Savkin, 1972. An American view holds that officers are “managers of violence.” See Janowitz, 1960.

### CHAPTER THREE — THE LAW AND THE DEFENCE MINISTRY

- 1 These regulations, as prescribed in NDA, sections 12 and 13, can be made by the Governor in Council, the Minister or the Treasury Board.
- 2 NDA, part II, section 14.
- 3 See Canada, House of Commons, Special Committee On Bill No. 133, “An Act Respecting National Defence,” *Minutes of Proceedings and Evidence*; especially No. 1, 23 May 1950.
- 4 Two of the main acts are the *Financial Administration Act* and the *Interpretation Act*.
- 5 NDA, *supra* note 3, s 17(1). Subsection 17(2) provides that units and other elements may be “embodied” in such of the components (regular, reserve or special) as the Minister may direct.
- 6 Under QR&O article 2.08(1)(b), the CDS may exercise the Minister’s powers whenever he considers it necessary to do so by reason of “training requirements or operational necessity,” provided that it is not a permanent reallocation of units to a command or formation as noted in QR&O article 2.08(2).
- 7 NDA, section 277 provides that the attorney general (or equivalent) of a province may requisition the CDS for the call-out of the Canadian Forces in aid of the civil power, but only to quell a riot or other disturbance of the peace beyond the capacity of the civil powers. See also sections 275, 279 and 280.
- 8 Occasionally, this has been set down in written directions for domestic matters such as the *Canadian Forces Armed Assistance Directions*, P.C. 1993-624, 30 March 1993, the *Penitentiary Assistance Order-in-Council*, P.C. 1975-131, 23 January 1975 and the *1976 Olympic Games Order-in-Council*, P.C. 1976-1735, 6 July 1976.

### CHAPTER FOUR — THE DECISION MAKERS

- 1 These descriptions are based in part on the NDA and on interviews conducted in NDHQ. They also reflect interpretations made by DND officials from time to time concerning the relationship among the Minister of National Defence, Deputy Minister and CDS. Readers are cautioned to use only the NDA for formal terms of reference as some DND documents include descriptions that are of uncertain validity.



- 2 NDA, section 14. A basic rule of construction in legislative drafting is that a change in wording is deemed the same as a change of intention. It follows that the Minister has not been given “control” of the CF, but may give general “direction” to the CDS as to how the CDS is to “control” the CF.
- 3 *Constitution Acts 1867*, article 15. See also House of Commons, Bill 133: 40-41.

#### CHAPTER FIVE — COMMAND

- 1 NDA, *supra* note 3, Chapter 3, this study, section 19. This section must be read with section 49 of the NDA.
- 2 Emphasis added. An “officer” means a person holding Her Majesty’s commission, an officer cadet or any person pursuant to law attached or seconded as an officer to the CF. NDA, section 2, Interpretations.
- 3 QR&O articles 1.14, 1.15 and 1.16.
- 4 The Minister of National Defence may “approve” of any officer (of or above the rank of colonel serving outside Canada) to do anything that may be done by the CDS.
- 5 QR&O article 3.21.
- 6 QR&O article 111.05(c).
- 7 NDA, article 2, Interpretations.
- 8 NDA, article 83.
- 9 It is an offence to issue unlawful orders.
- 10 QR&O article 4.20.
- 11 The term belongs to Stephen Harris, 1988.
- 12 Canada, House of Commons, *Hansard, Parliamentary Debates*, 8 May 1964: 3068.
- 13 Interviews, Ottawa 1992 and 1993.

#### CHAPTER SIX — A SYSTEM IN TROUBLE

- 1 See, for example, Newman, 1983; Hasek, 1987; Bland, 1986/87: 26-31; Bland, 1987b: 527-549; Bland, 1989b: 3-16; and Walker, 1991.
- 2 DND, 1980a. For a detailed assessment of the Report and its background see, Bland, 1987a: 122-124; and Bland, 1995: 101-121.
- 3 For example, Colonel George Oehring reported in late 1994 that the army suffers from a “loss of confidence and trust” in its leaders. DND, LFC 5760-1 (G1), 5 December 1994.

- 4 See, for example, the running battle between DND and the so-called "soldiers' journal," *Esprit de Corps*, especially volumes 4/2 and 4/8.
- 5 The defence white paper of 1987 is not unique in this regard. Few such papers have ever been the actual basis for policy for long. See Bland, 1989b: 3-16.
- 6 For an assessment of this period see Bland, 1995: 252-260.
- 7 A sense of this frustration (and the need to remove it) is captured in the comments of the CDS, General Jean Boyle, who, soon after taking office, remarked that the army is ill-equipped and that he would not support requests from the government "to go into a high intensity theatre." *The Globe and Mail*, Tuesday, 13 February 1996: A1.
- 8 DND, NDHQ, "Program Evaluation: Command And Control," volume 7.
- 9 For a complete examination of the MRG period see Bland, 1987b: 527-549.
- 10 Confidential interview, Ottawa, December 1995.

#### CHAPTER SEVEN — FOUR STEPS FORWARD, ONE STEP BACK

- 1 The Special Joint Committee On Canada's Defence Policy made bold recommendations concerning Parliament's role in overseeing defence establishment and defence policy. See their report, *Security in a Changing World*, (Canada, 1994: 57-63).
- 2 The Judge Advocate General is independent of the Deputy Minister and may be independent of the Minister of National Defence also. NDA, article 9.
- 3 Letter from Brigadier-General Bruce Jeffries to his units. DND, LFC, SSF-5000-1 (Comd), 6 March 1995: 5/9.

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## National Defence Headquarters: Centre for Decision

Douglas L. Bland

National Defence Headquarters is at the centre of defence policy making, command of the Canadian Armed Forces, and defence administration. It is simultaneously the government's instrument for controlling defence policy and for directing the armed forces. National Defence Headquarters is therefore not only a legitimate target for close investigation by anyone concerned with defence policy and operational outcomes but ought to be the critical and primary focus of their attention.

This study explores the crucial aspect of civil-military relations encompassed in the dynamic between policy making, command, and administration by focusing attention on National Defence Headquarters, the centre for defence decisions in Canada.

DR. DOUGLAS BLAND holds the chair in defence management studies at Queen's University in Kingston, Canada. His research is concentrated in the fields of defence policy making and administration at the national and international levels, the organization and functioning of defence ministries, and civil-military relations. He has published books, articles, and reports and lectured in these fields in Canada, the United States, Europe and South Africa. His most recent book (published in 1995) is *Chiefs of Defence: Government and the Unified Command of the Canadian Armed Forces*.

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